

House Concurrent Resolution 173 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 173, Suspending the Joint Rules to permit the House to consider Local and Uncontested Bill Calendar on Thursday, May 26, 1955.

The resolution was read.

On motion of Senator Kazen and by unanimous consent the resolution was considered immediately and was adopted.

Conference Committee on House Bill 20

Senator Parkhouse called from the President's table for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H. B. No. 20, and moved that the request be granted.

The motion to grant the request prevailed.

House Concurrent Resolution 124 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 124, Directing the State Parks Board and the State Historical Survey Committee to make an investigation of the possibilities of preserving Old Indianola and its environs as an historic site and State Park.

The resolution was read.

(Pending discussion by Senator Moore of the resolution, Senator Hardeman occupied the Chair.)

(President in the Chair.)

Question—Shall H. C. R. No. 124 be adopted?

Adjournment

On motion of Senator Weinert, the Senate, at 12:05 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

SIXTY-NINTH DAY

(Friday, May 27, 1955)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Moffett
Ashley	Moore
Bracewell	Owen
Colson	Parkhouse
Corbin	Phillips
Fly	Ratliff
Fuller	Roberts
Hardeman	Rogers
Hazlewood	of Childress
Kazen	Rogers of Travis
Kelley	Secrest
Lane	Shireman
Latimer	Strauss
Lock	Wagonseller
Martin	Weinert
McDonald	Willis

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation, as follows:

"Our Father, we are many members, yet one body; many assignments, yet one responsibility. May we accept our responsibility; forgive us our selfishness and ill tempers, and make us fit to live together in peace and goodwill; remembering always, 'Now abideth faith, hope, and charity; but the greatest of these is charity.' We pray in Christ's name. Amen."

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Senate Resolution 395

Senator Aikin offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate, the Senior Class of North Hopkins High School, accompanied by Mr. W. S. Long, superintendent; Mrs. W. S. Long, Mrs. Lucille Horn, and Mr. J. J. Smiddy; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and

commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Conference Committee on House Bill 341

Senator Hardeman called from the President's table for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H. B. No. 341 and moved that the request be granted.

The motion to grant the request prevailed.

Senate Resolution 396

Senator Moffett offered the following resolution:

Whereas, We are honored today to have in the gallery the Senior Class of Lockett High School, Vernon, Texas, accompanied by Mr. and Mrs. Melton Holubec, and Mr. and Mrs. Loyd McLarity; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine class of young American citizens is here to observe and learn firsthand the workings of their State Government; therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Moffett, by unanimous consent, presented the students, the teachers and sponsors to the Members of the Senate.

Senate Resolution 397

Senator Secrest offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate, 68 Ninth Grade students from the East Junior High School of Waco, Texas, accompanied by their teachers, Mrs.

Tommy Riggs and Mr. Ray Hutyra; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Secrest, by unanimous consent, presented the students and Mrs. Riggs and Mr. Hutyra to the Members of the Senate.

Bills and Resolutions Signed

The President signed in the presence of the Senate after the captions had been read the following enrolled bills and resolutions:

H. B. No. 680, A bill to be entitled "An Act creating under Article XVI, Section 59, of the Constitution of Texas, a Conservation and Reclamation District to be known as 'City of McAllen Authority,' describing the territory embraced in the boundaries of said district, defining and prescribing the rights, privileges, powers and functions of said district, and declaring an emergency."

H. B. No. 775, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article 16 of the Constitution, to be known as 'Travis-Williamson County Water Control and Improvement District No. 1'; enacting other provisions relating to the subject; and declaring an emergency."

H. B. No. 396, A bill to be entitled "An Act reorganizing the 75th Judicial District of Texas to be composed of Liberty and Chambers Counties and prescribing the jurisdiction and fixing the terms thereof; reorganizing the 88th Judicial District of Texas to be composed of Hardin and Tyler Counties and prescribing the jurisdiction and fixing the terms; etc.; and declaring an emergency."

H. C. R. No. 168, Requesting House Bill No. 443 to be returned from the Governor's desk to the House of Representatives for correction.

H. C. R. No. 145, Requesting the Texas Legislative Council to make a study of the regulation of commercial fishing in the fresh waters of this State.

H. C. R. No. 169, Requesting the Governor to return House Bill No. 909 for correction.

H. C. R. No. 167, In memory of William Henry Crosthwait of Dallas, Texas.

Senate Resolution 398

Senator Wagon seller offered the following resolution:

Whereas, We are honored to have on the floor of the Senate Judge Jouette Bonner of Jacksboro, Texas, and

Whereas, Judge Bonner is an outstanding lawyer and citizen of North Texas; therefore, be it

Resolved, That he be welcomed by the Senate and extended the courtesies of the floor for the day.

The resolution was read and was adopted.

Senate Resolution 399

Senator Hardeman offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate 11 students of the Senior Class of Miles Rural High School of Miles, Runnels County, accompanied by Mr. A. H. Self, Principal, and Superintendent Mr. and Mrs. L. M. Hayes; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Hardeman by unanimous

consent presented the students, Mr. Self and Mr. and Mrs. L. M. Hayes to the Members of the Senate.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 27, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 959, Creating a Court of Domestic Relations for Smith County, etc., and declaring an emergency.

S. C. R. No. 74, Directing Enrolling Clerk of the House of Representatives to deliver the enrolled copy of H. B. No. 153.

S. C. R. No. 75, Commending the State Board of Education and the Texas Education Agency on this centennial year of the founding of the Texas Public School System in Texas.

S. B. No. 143, A bill to be entitled "An Act relating to narcotic drugs and barbiturates; amending the Uniform Narcotic Drug Act (Article 725b, Vernon's Penal Code) and the Texas Barbiturate Law, Chapter 413, Acts of the 52nd Legislature (Article 726c, Vernon's Penal Code), by making further provisions relative to drugs administered or dispensed and the maintenance of permanent records thereof; amending provisions of the foregoing statutes; providing for severability; and declaring an emergency."

S. B. No. 264, A bill to be entitled "An Act amending Article 2833, Revised Civil Statutes of 1925, providing that any independent school district which under existing laws selects its own treasurer may in lieu of the treasurer's annual report heretofore required to be filed, file an annual independent audit report prepared and certified by a Texas licensed or certified public accountant; providing the procedure, conditions, nature, minimum requirements of, and time for filing such a permissive audit report; providing for notice of district board's election to file audit report and release of treasurer from filing treasurer report when election is timely made; and declaring an emergency."

S. B. No. 412, A bill to be entitled "An Act amending Section 1 of Senate Bill No. 199, Acts of the 54th Legislature, Regular Session, so as to clarify the powers and authority therein conferred on El Paso County Water Control and Improvement District No. 4; and declaring an emergency."

S. B. No. 421, A bill to be entitled "An Act authorizing and directing the Board of Texas State Hospitals and Special Schools, acting through its Executive Director, to execute and deliver an instrument granting an easement in certain lands to the San Antonio River Authority for certain purposes upon certain conditions and covenants; and declaring an emergency."

S. B. No. 423, A bill to be entitled "An Act amending Section 2 of House Bill 302, Acts of the Fifty-fourth Legislature, Regular Session, 1955; repealing all laws in conflict with this Act in so far as they conflict with this Act; and declaring an emergency."

S. B. No. 435, A bill to be entitled "An Act validating the incorporation of all cities and towns of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas; validating the boundary lines at the time of such incorporation and the extension of those boundaries; validating governmental proceedings; providing that this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation; and declaring an emergency."

(As amended.)

S. B. No. 441, A bill to be entitled "An Act providing for the fixing of compensation of judges of district courts in counties in this State which comprise a part of a judicial district consisting of not less than four (4) counties, of which two (2) of said counties have two (2) or more district courts; providing the manner of payment; establishing a limitation of the amount of such compensation; providing for validity of remaining portion of Act if any part declared unconstitutional; and declaring an emergency."

S. B. No. 446, A bill to be entitled "An Act amending Section 8 of Article XVII, Chapter 184, of the Acts

of the 47th Legislature, Regular Session, codified as Article 7065b-8, Vernon's Annotated Civil Statutes, relating to lien of motor vehicles, etc.; and declaring an emergency."

S. B. No. 426, A bill to be entitled "An Act abolishing the Special Second District Court of Texas, composed of Angelina, Cherokee and Nacogdoches Counties; providing for the creation of a permanent judicial district court to be known as the 145th Judicial District Court of Texas, composed of Angelina, Cherokee, and Nacogdoches Counties; providing for the appointment by the Governor of a Judge of the District Court of the 145th Judicial District, who shall hold office until the next General Election and until his successor shall be duly elected and qualified, and providing for his compensation; providing for the terms of the 145th Judicial District Court created hereby and providing for continuous terms of said court in each of said counties; providing for the terms of the Second Judicial District Court in each of said counties and providing for continuous terms of said court in each of said counties; providing for a Clerk and for a District Attorney for said District Courts; providing for continuance in office of the Judge of the Second District Court; prescribing the jurisdiction of said courts; providing for separate dockets and minutes for said courts; providing that the District Clerks in each of the counties governed by this Act shall transfer all criminal and civil cases from the Special Second District Court to the District Court of the 145th Judicial District on the effective date of this Act; providing that all processes and writs issued or served and recognizances, bonds and undertakings before this Act takes effect and made returnable to the Special Second District Court shall be considered as returnable to the next succeeding term of the District Court of the 145th Judicial District; providing that all grand and petit juries drawn and selected under existing laws in Angelina, Cherokee, and Nacogdoches Counties shall be considered as lawfully drawn and selected for the next ensuing term of the District Court of the 145th Judicial District in their respective counties; providing that the Judges of said courts may sit in the same county at the same time; providing for the appointment of court reporters by the Judges of each of said courts and providing for payment

therefor; providing that said Judges shall sign the minutes of each term of said courts and each of said counties within thirty (30) days after the time of each term; providing for the method of selecting qualified jurors in both said courts; providing for a vacation for the Judges of said courts; making other provisions relative to the business and functioning of the District Courts in the counties affected; repealing all laws in conflict herewith to the extent of such conflict only; providing a severability clause; making an appropriation for payment of salary and expenses of the Judge of the 145th Judicial District; and declaring an emergency."

S. B. No. 438, A bill to be entitled "An Act amending Section 122 of Article 1970, Vernon's Annotated Civil Statutes of the State of Texas, as amended, so as to allow the Commissioners Court of Jefferson County, Texas, to set the salary of the Judge of the County Court of Jefferson County at Law at a figure not less than Eight Thousand (\$8,000) Dollars and not more than Ten Thousand (\$10,000) Dollars per annum; providing a severability clause; repealing all laws in conflict; and declaring an emergency."

S. B. No. 277, A bill to be entitled "An Act authorizing the Daughters of the Confederacy and the Daughters of the Republic to charge admission fees and to maintain and operate concession stands in all State property under the custody and control of such organizations; providing that money obtained from the admission fees and the operation of concessions shall be used for the maintenance and repair of the State property under the custody and control of such organizations; providing for a repealing clause; and declaring an emergency."

(With amendment.)

S. B. No. 126, A bill to be entitled "An Act to abolish the office of County Attorney of Randall County, Texas; creating the constitutional office of Criminal District Attorney for Randall County; providing for the election and tenure of office and prescribing the qualifications, powers, duties, compensation and expenses of said office; providing for the appointment of an assistant and a secretary when necessary and providing for their compensation and prescribing

their powers and duties; providing for the appointment of the Criminal District Attorney until the next general election and until his successor shall qualify; etc.; and declaring an emergency."

The House refused to concur in Senate amendments to House Bill No. 709 and has requested the appointment of a conference committee to consider the differences between the two Houses.

The House has adopted the Conference Committee Report on House Bill No. 287 by a vote of 127 yeas, 2 nays.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 309.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 226.

The House has appointed the following conferees on S. B. No. 309: Smith of Tarrant, Sayers, Pyle, Kennard, McDonald.

The House has appointed the following conferees on S. J. R. No. 2: Saul, Lane, McDonald, Andis, Schwartz.

The House has appointed the following conferees on S. B. No. 226: de la Garza, Smith of Hays, Heiteman, Yezak, Mullen.

The House has appointed the following conferees on H. B. No. 20: Sanders, Neimann, Pyle, Hosey, Zbranek.

The House has appointed the following conferees on H. B. No. 709: Jamison, Glusing, Carr, Dewey, Murray.

H. C. R. No. 175, Congratulating the Madisonville Sidewalk Cattlemen's Association on the event of its annual barbecue June 2.

H. C. R. No. 176, Requesting the return of H. B. No. 899 from the Governor's office for correction.

H. B. No. 729, A bill to be entitled "An Act to amend Chapter 471, Acts of the 52nd Legislature, Regular Session, 1951, as amended, compiled as Vernon's Civil Statutes, Art. 3731a, by amending Section 2, inserting a new Section 2a, and amending Section 4 so as to provide for admissibility of a greater number of foreign records, admissibility of foreign laws

as evidence of the matters contained therein for authentication of such foreign laws; and declaring an emergency."

H. B. No. 826, A bill to be entitled "An Act authorizing the Board of Directors of Texas College of Arts and Industries to levy and collect a health fee and a Student Union Building fee; and declaring an emergency."

H. B. No. 928, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article 16, of the Constitution, to be known as 'Bell County Water Control and Improvement District No. 4'; conferring upon the district the powers of the general laws governing water control and improvement districts where not in conflict with this Act; providing for the governing body of the district; etc., and declaring an emergency."

H. B. No. 948, A bill to be entitled "Authorizing the Board of Texas State Hospitals and Special Schools to grant an easement over certain state-owned lands in Kerr County, to the county for right-of-ways, etc., and declaring an emergency."

H. B. No. 943, A bill to be entitled "An Act establishing the Cass County Juvenile Board; prescribing its membership and powers and providing for compensation of its members; authorizing appointment of a juvenile officer; prescribing his powers and duties and providing for his compensation and expenses; repealing conflicting laws; providing for severability; and declaring an emergency."

H. B. No. 961, A bill to be entitled, "An Act creating one additional District Court for Dallas County, Texas; defining its jurisdiction; adjusting the business of the existing District Courts to the business thereof; prescribing the duties of the District Clerk with respect thereto; providing for the appointment of a Judge therefor; and declaring an emergency."

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 400

Senator Rogers of Childress offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate, the Senior Class of Hedley High School, Hedley, Texas, Donley County, accompanied by two of their teachers, Mr. and Mrs. Doyle Messer; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Rogers of Childress, by unanimous consent, presented the students and Mr. and Mrs. Doyle Messer to the Members of the Senate.

Report of Standing Committee

Senator Kelley submitted the following report:

Austin, Texas,
May 27, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water Rights, Irrigation and Drainage, to whom was referred H. B. No. 875, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

KELLEY, Chairman.

House Bill 660 on Second Reading

Senator Lock asked unanimous consent to suspend the regular order of business and take up H. B. No. 660 for consideration at this time.

There was objection.

Senator Lock then moved to suspend the regular order of business and take up H. B. No. 660 for consideration at this time.

The motion prevailed by the following vote:

Yeas—29

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Colson	Phillips
Fly	Ratliff
Fuller	Roberts
Hardeman	Rogers
Hazlewood	of Childress
Kazen	Rogers of Travis
Lane	Secrest
Latimer	Shireman
Lock	Strauss
Martin	Wagonseller
McDonald	Weinert
Moffett	Willis

Nays—2

Corbin	Kelley
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The President laid before the Senate on its second reading the following bill:

H. B. No. 660, A bill to be entitled "An Act to revise and arrange certain statutes of this State relating to taxation into a new title of the Revised Civil Statutes of Texas to be known as 'Title 122A, Taxation—General'; preserving the substantive law as it existed immediately prior to the passage of this Act except where a contrary intention is clearly expressed; providing that Title 122 of the Revised Civil Statutes shall be known as 'Title 122, Taxation—Ad Valorem'; amending certain portions of the Texas Liquor Control Act so as to make appropriate references to the new title created; levying additional taxes for the support of the State government; repealing certain statutes and acts relating to taxation; providing a severability clause; providing a savings clause; and declaring an emergency."

The bill was read the second time.

Senator Lock offered the following amendment to the bill:

Amend H. B. 660 by striking out all below the enacting clause and inserting in lieu thereof the following:

ARTICLE I

Section 1. That Section 2 of House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended (codified as Section 2 of Article 7047c-1, Vernon's Texas Civil Statutes), be and the same is hereby amended so as to hereafter read as follows:

"Sec. 2. (a) A tax of Two Dollars (\$2) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Four Dollars and Ten Cents (\$4.10) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

"(b) Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required; provided further, that such stamps shall not be required to be purchased and affixed to sample packages of cigarettes containing no more than five (5) cigarettes per package when the manufacturer of the cigarettes reports and pays the said tax thereon directly to the State.

"(c) Provided, that the tax imposed by this Act shall be in lieu of any occupation or excise tax imposed by the State or any political subdivision thereof, on cigarettes.

"(d) Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only and shall be purchased from and sold only by said Treasurer, except as hereinafter provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22, and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then and in that event the offender may purchase the required stamps from any

distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately and under the direction of the Comptroller and the Comptroller shall have the authority to issue such requisition which shall be made in triplicate on a form prescribed by the Comptroller with the printed words 'Original,' 'Duplicate,' and 'Triplicate,' on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer which have not been used and it shall be the duty of said Treasurer upon receipt of such recalled stamps to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller.

"(e) From the effective date of this Act, the net revenue derived from the tax levied by this Section 2 shall be allocated as follows: One-fourth (1/4) shall be credited to a special fund known as the State Hospitals and Special Schools Building Fund heretofore created by the Legislature; one-fourth (1/4) of the balance of the net revenue shall be credited to the State Available School Fund; and three-fourths (3/4) shall be credited to the Clearance Fund established by House Bill No. 8, Acts of the Forty-seventh Legislature, 1941, page 269, Chapter 184; provided, however, that not in excess of Five Million Dollars (\$5,000,000) shall be credited to the State Hospitals and Special Schools Building Fund for the fiscal year ending August 31, 1955, and not in excess of Five Million Dollars (\$5,000,000) for each fiscal year of the biennium ending August 31, 1957, shall be credited to such fund. Any balance in excess of such Five Million Dollars (\$5,000,000) in any such fiscal year shall be transferred to and become a part of the State Hospital Fund heretofore created by the Legislature, which is and shall be the same State Hospital Fund as provided for in House Bill No. 3 of the First Called Session of the Fifty-first Legislature. After Sep-

tember 1, 1957, all revenue from taxes levied by this Section, except that allocated to the State Available School Fund, shall be credited to the General Revenue Fund.

"This section shall supersede the provisions of the Section 2 contained in subdivision (b) of Section 1 of House Bill No. 2, Chapter 1, Acts, First Called Session, Fifty-first Legislature."

Section 2. That House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended, be, and the same is hereby amended by adding a new section following Section 2 and to be known as Section 2½ and to read as follows:

"Sec. 2½. (a) In addition to the tax levied by Section 2 herein, there is hereby imposed a tax of seventy-five Cents (75c) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Seventy-five Cents (75c) per thousand on those weighing more than three (3) pounds per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

"(b) Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required; provided further, that such stamps shall not be required to be purchased and affixed to sample packages of cigarettes containing no more than five (5) cigarettes per package, when the manufacturer of the cigarettes reports and pays the said tax thereon directly to the State.

"(c) From the effective date of this Act the net revenue derived from the tax levied under this Section 2½ shall be credited to the General Fund of this State. Provided, no portion of the revenues derived under this Section 2½ shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided further, the net revenues collected under this Section 2½ may be credited daily to the Clearance Fund heretofore referred to in this Act and on the first day of each month following the collection of the net revenues derived under this Section 2½ the said net revenues shall be credited to the General Fund; it being specifically understood that no portion of the said net revenues of this Section 2½ shall remain or be distributed under the provisions governing the said Clearance Fund."

Section 3. That Section 3 of House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended, (codified as Section 3 of Article 7047c-1, Vernon's Texas Civil Statutes) be, and the same is hereby amended so as to hereafter read as follows:

"Sec. 3. (a) A 'Cigarette Tax Stamp Board' composed of the Board of Control of this State, designated hereafter as the 'Board,' is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

"(b) The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of

stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit at a discount of four (4%) per cent of the face value; provided, that no discount shall be allowed to out-of-state purchasers residing in the states that do not give discounts on cigarette tax stamps purchased from said states by Texas cigarette distributors; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same, such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equalling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

"(c) The State Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued prior to such change in denomination and in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps for cigarette tax stamps of the new denomination. After the effective date of this Act, every person having in his possession stamps of the old denomination shall send them to the Treasurer for exchange at face value for stamps of the new denomination. Such exchange shall be made within thirty (30) days after the effective date of this Act, and it shall be unlawful for any person to have in his possession any stamps of the old denomination after the expiration of thirty (30) days from the effective date of this Act. It shall further be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old denomination are affixed. After the ex-

piration of thirty (30) days from the effective date of this Act, stamps of the old denomination shall be void, provided, that stamps removed from cigarettes determined by the Comptroller to be unsaleable may be redeemed under rules and regulations promulgated or hereafter promulgated by the Comptroller. Every retail dealer and wholesale dealer having cigarettes to which stamps of the old denomination are affixed in his stock in quantities of two thousand (2,000) or more on the effective date of this Act shall immediately inventory the same and file a report of such inventory to the Comptroller and attach to such inventory a cashier's check payable to the State Treasurer in a sum equal to the amount of additional tax due on such cigarettes computed at the new rate provided in this Act. Such retail dealer or wholesale dealer shall retain as a receipt to evidence payment of the tax a purchaser's copy of the cashier's check and shall retain a copy of the inventory reported to the Comptroller.

"(d) All funds credited to the State Hospitals and Special Schools Building Fund under this Act are hereby appropriated to the Board for Texas State Hospitals and Special Schools for the purpose of constructing, repairing and equipping such buildings as in the opinion of the Board are necessary to the proper care of those committed or to be committed to such hospitals and special schools according to the law. Provided, however, the fees paid to an architect shall not exceed six per cent (6%) for the plans, specifications and supervisions of said buildings and all contracts made for and the final acceptance in connection with such construction other than the plans and specifications, shall be subject to the review and approval of the Board of Control.

"(e) All unexpended balances of funds appropriated to the said Board existing at the end of this or any succeeding biennium shall revert and be returned to the State Hospitals and Special Schools Building Fund.

"(f) The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design,

which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of the issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of a new design; provided, it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purposes of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

"Any person who shall have in his possession any cigarette tax stamps of the old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

"(g) Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

"The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

"(h) Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided, further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamps.

"(i) Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided, further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided.

"This section shall supersede the provisions of the Section 3 contained in subdivision (b) of Section 2 of House Bill No. 2, Chapter 1, Acts, First Called Session, Fifty-first Legislature."

ARTICLE II

Section 1. That subsection (a) of Section 2 of Article XVII, House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, 1941, Regular Session (which is codified as Article 7065b-2(a) Vernon's Civil Statutes) be and the same is hereby amended to read as follows:

"Section 2. (a) There shall be and is hereby levied and imposed (except as hereinafter provided) upon the first sale, distribution, or use of motor fuel in this State an excise tax of five and one-half cents (5½¢) per gallon or fractional part thereof so sold, distributed, or used in this State. Every distributor who makes a first sale or distribution of motor fuel in this State for any purpose whatsoever shall, at the time of such sale or distribution, collect the said tax from the purchaser or recipient of said motor fuel, in addition to his selling price, and shall report and pay to the State of Texas the taxes collected at the time and in the manner as hereinafter provided. Every such distributor shall also be liable to the State of Texas for the said tax of five and one-half cents (5½¢) per gallon on each gallon of motor fuel or fractional part thereof used or consumed by him, and shall report and pay said tax as hereinafter provided. In each subsequent sale or distribution of motor fuel upon which the tax of five and one-half cents (5½¢) per gallon has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said motor fuel for the purpose of generating power for the propulsion of any motor vehicle upon the public highways of this State.

"It is the intent and purpose of this Article to collect the tax levied herein at the source of said motor fuel in Texas or as soon thereafter as the same may be subject to being taxed. No person, however, shall be required to pay a tax on motor fuel brought into this State in a quantity of thirty (30) gallons or less in a fuel tank, with a capacity of not more than thirty (30) gallons, when said fuel tank is connected with and feeds the carburetor of said motor vehicle and the motor fuel contained therein is used in the operation of said motor vehicles and not otherwise."

Sec. 2. That subsection (a) of Section 14, Article XVII, Chapter 184, Acts of the Forty-seventh Legislature, 1941, Regular Session, as amended by Section 3, Chapter 298, Acts of the Forty-eighth Legislature, 1943, Regular Session as amended by Section 5, Section XXII, Chapter 402, Acts of the Fifty-second Legislature, 1951, Regular Session (which is codified as Article 7065b-14(a) Vernon's Civil Statutes) be and the same is hereby amended to read as follows:

"Section 14. (a) There is hereby levied and imposed an excise tax of five and one-half cents ($5\frac{1}{2}\text{¢}$) per gallon on all liquefied gas used, or delivered into a fuel tank for use in propelling a motor vehicle upon the public highways of Texas, and six and one-half cents ($6\frac{1}{2}\text{¢}$) per gallon on all other liquid fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highways of Texas, and every user-dealer who sells and delivers liquefied gas or other liquid fuels into a fuel tank or tanks used to supply fuel for the propulsion of any licensed motor vehicle or any other motor vehicle being operated or intended to be operated upon the public highways of this State shall, at the time of such sale and delivery, collect the said tax at the rate or rates imposed from the purchaser of or recipient of said special fuels, in addition to his selling price, and shall report and pay to the State of Texas the tax so collected at the time and in the manner as herein provided. Every user-dealer shall likewise report and pay to the State of Texas, the tax at the rate or rates imposed hereinabove on each gallon of liquefied gas or other liquid fuels, hereinafter referred to as special fuels, acquired in any manner tax free by said user-dealer and thereafter used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highways of Texas.

"It is the intent and object of this Section that the tax or taxes imposed herein on special fuels, as that term is defined, shall be paid by the persons using or consuming said special fuels to generate power for the propulsion of motor vehicles upon the public highways of this State, and the granting of a permit to user-dealers to collect said excise taxes for and in behalf of the State of Texas shall be deemed to establish a fiduciary relationship. Provided, however, that no tax shall be imposed upon the sale or delivery of special fuels to the United States Government for its exclusive use.

"Provided that no tax shall be paid on special fuels brought into Texas in quantities of not more than thirty (30) gallons in a fuel tank connected to and feeding the carburetor of a motor vehicle entering the State; if said quantities exceed thirty (30) gallons, the tax and penalties shall apply to the full amount being used on the Texas highways. Provided, fur-

ther, that a licensed user-dealer may deduct from his report and tax remittance the tax on one per cent (1%) of the taxable gallonage to cover the expense of collecting the taxes, keeping records, making reports and furnishing bond."

"Provided, however, the tax free importations of special fuels in fuel tanks shall not apply to motor vehicles operating over the Texas highways for hire or compensation or for commercial purposes, and it is expressly provided that every person importing special fuels in a fuel tank of a motor vehicle used to transport passengers or merchandise over the Texas Highways for hire or compensation, or used on the Texas highways for other commercial purposes, shall qualify as a licensed user-dealer in Texas and shall report and pay the tax on all special fuels imported and used to propel motor vehicles upon the public highways of Texas as hereinafter provided. Such user-dealers shall maintain a complete and accurate record of the total miles traveled in Texas and elsewhere by each motor vehicle using special fuels both within and without the State of Texas, and such other records as the Comptroller may prescribe by rule and regulation. In case it is not practicable for a user-dealer to accurately measure the special fuels in the fuel tank of his motor vehicle when entering the State the Comptroller may determine the gallons of special fuels used in this State by dividing the total miles traveled in Texas by the applicable mileage factor, as hereinafter set forth; For motor vehicles with a gross loaded weight capacity of less than twenty-two thousand five hundred (22,500) pounds, the mileage factor shall be eight (8); for all motor vehicles with a gross loaded weight capacity of twenty-two thousand five hundred (22,500) pounds or more, the mileage factor shall be five (5); for any motor vehicle in which the user-dealer has kept an accurate record acceptable to the Comptroller of the total miles traveled and the total gallons of special fuels used in such travel, the mileage factor shall be the average miles per gallon traveled by said motor vehicle as determined by dividing the total miles traveled in Texas and elsewhere by the total gallons of fuel used in such travel, and the Comptroller is hereby authorized to accept and approve the payment of taxes on such basis.

Sec. 3. That Article XVII of House

Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, Regular Session (codified as Article 7065b, Section 1 through 29, Vernon's Annotated Civil Statutes of Texas), as amended, be and the same is hereby amended by adding thereto a new Section to be denominated Section 14-A, and to be inserted between Sections 14 and 15 thereof, which new Section 14-A shall read and provide as follows:

"Section 14-A. Provided, however, that in lieu of the taxes hereinabove levied by Subdivision (a) of Section 2 hereof and by Section 14 hereof, there shall be and are hereby levied, excise taxes as follows:

"(a) An excise tax of four cents (4c) per gallon or fractional part thereof upon the first sale, distribution or use of motor fuel in this State; and

"(b) An excise tax of Four Cents (4c) per gallon or fractional part thereof on all users of liquefied gases, and of Six Cents (6c) per gallon or fractional part thereof on all users of other liquid fuels, upon the use of such liquefied gases and other liquid fuels within this State only when such liquefied gases and other liquid fuels are used in an internal combustion engine for the generation of power to propel motor vehicles upon the public highways of this State.

"The taxes levied herein shall be applicable only when such motor fuel, liquefied gases and other liquid fuels are used or consumed, or are to be used or consumed by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts. Said taxes shall be collected and paid in the same manner as the taxes levied by Subdivision (a) of Section 2 and by Section 14 hereof.

"Where the first sale, distribution or use of motor fuel, or the use of liquefied gases or other liquid fuels, in this State, is to or by a transit company, and such company shall furnish to the distributor or seller, or the Comptroller of Public Accounts, as the case may be, an affidavit to the effect that it possesses the afore mentioned four (4) characteristics and that it will use such motor fuel, lique-

fied gases or other liquid fuels only in the operation of its transit vehicles, the distributor or seller, or the Comptroller of Public Accounts, as the case may be, shall collect from such transit company only the taxes levied herein.

"Where the first sale or distribution of motor fuel in this State is not to a transit company, with the result that the distributor or seller has collected the tax levied by Subdivision (a) of Section 2 hereof, but such motor fuel is thereafter sold or distributed to, or used by, a transit company, such transit company may obtain a refund in the amount of One and One-half Cent (1½c) per gallon or fractional part thereof of such motor fuel by conforming to the refund procedure set forth in Section 13 hereof, and by furnishing to the Comptroller of Public Accounts an affidavit to the effect that it possesses the aforementioned four (4) characteristics and that it has used, or will use, such motor fuel only in the operation of its transit vehicles."

Section 4. Section 5(a) of Article XVII, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended, be and the same is amended hereby to read hereafter as follows:

"Sec. 5. (a) The Comptroller may authorize and permit any person producing natural gasoline, casinghead gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas, in their natural and unrefined state, or any person operating a pipeline as a common carrier, or any licensed distributor of motor fuel in this State to make a sale, resale, or distribution of such products or of motor fuel, without collecting the tax levied herein, to any distributor holding a valid permit under the terms of this Article, when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the product is sold and purchased for the purpose of exportation, further refining, further processing, further treating, blending or compounding with other products to produce motor fuel, or for resale to the Federal Government for the exclusive use of said Federal Government, or for resale for some one or more of such purposes, and not otherwise. If the distributor purchasing said products without paying said tax shall thereafter sell, or distribute said products, either alone or when compounded with other products, in this State, for any

purpose other than that hereinabove provided, he shall be required to collect and pay over to the State of Texas at the time and in the manner herein provided, the tax at the rate levied by subdivision (a) of Section 2 hereof upon each gallon or fractional part thereof sold or distributed. Said distributor shall also be liable for and shall be required to pay to the State of Texas said tax at the aforesaid rate upon each gallon of such motor fuel used by said distributor. Failure or refusal to collect and pay over to the State of Texas the tax on motor fuel so sold or distributed by said distributor, or to pay the tax on motor fuel used by said distributor, shall subject him to all the liabilities, penalties, forfeitures, interest and costs provided in this Article.

"This section shall supersede the provisions of House Bill No. 688, Acts, Regular Session, 54th Legislature."

Sec. 5. Provided that all taxes, penalties and interest accruing to the State of Texas before the effective date of this Act by virtue of the amended or re-enacted provisions of Chapter 184, Article XVII, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, as further amended by Section XXII, Chapter 402, Acts of the Regular Session of the 52nd Legislature, and all taxes, penalties and interest accruing under the provisions of pre-existing gasoline, motor fuel or special fuels tax laws, prior to the effective date of this Act, shall be and remain valid and binding obligations due the State of Texas, and such taxes, penalties and interest are hereby declared to be legal and valid obligations to the State, and all liens and other obligation created and all bonds executed to secure their payment under the terms of said amended or re-enacted Act are hereby declared to be and shall remain in full force and effect. It is further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such above amended and re-enacted Act before the effective date of this Act, shall be affected by the amendment herein of any such laws, but the punishment of such offense and recovery of such fines and forfeitures shall take place as if the law amended and re-enacted had remained in force.

ARTICLE III

Section 1. Paragraph (17) of Section 13, Article I of the Texas Liquor Control Act, be amended so as to read hereafter as follows:

"(17). Wine and Beer Retailer's Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off premises where sold, but not for resale, wine, beer and malt liquors containing alcohol in excess of one-half of one per cent ($\frac{1}{2}$ of 1%) by volume and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer, as to hours of sale and delivery, local restrictions, sales to minors and intoxicated persons, age of employees, installation or maintenance of barriers or blinds, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15 of Article II of this Act. For the violation of any applicable provisions of Article II the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provisions of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The Annual State fee for a Wine and Beer Retailer's Permit shall be Fifty Dollars (\$50); provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon pay-

ment of a fee of Five Dollars (\$5) for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be in-operative in any dry areas as the same is defined in this Act."

Section 1a. Amend Section 13, Article I of the Texas Liquor Control Act by adding a new paragraph to be numbered (17½) and to read as follows:

"(17½). Wine and Beer Retailer's Off-Premise Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Off-Premise Permits. The holders of such permits shall be authorized to sell for consumption off the premises where sold, but not for resale, wine and beer and malt liquors containing alcohol in excess of one-half (½) of one per cent (1%) by volume, and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for and issuance of Retail Beer Dealer's Off-Premise Licenses under Article II of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Dealer's Off-Premise License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Off-Premise Permits shall also be subject to all provisions of Section 22 of Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer for off-premise consumption only. For the violation of any applicable provision of Article II the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The annual State fee for a Wine and Beer Retailer's Off-Premise Permit shall be Twenty-five Dollars (\$25); and any holder of a Wine and Beer Retailer's Permit under para-

graph (17) of this section, upon expiration or surrender of such permit, and on payment of said fee herein set out, shall be entitled to and shall have issued to him a Wine and Beer Retailer's Off-Premise Permit without the filing of an original application therefor."

Sec. 2. Paragraphs (b), (c), (d), (e) and (f) of Section 3, of Article II of the Texas Liquor Control Act, be amended so as to read hereafter as follows:

"(b). General Distributor's License. A General Distributor's License shall authorize the holder thereof to distribute or to sell beer to other General Distributors, Branch Distributors, Local Distributors, Retail Dealers, ultimate consumers and others only in the unbroken original packages in which it is received by him from the Manufacturer, General Distributor, or Branch Distributor, and to serve free beer for consumption on the licensed premises. Annual State fee for a General Distributor's License shall be Three Hundred Dollars (\$300).

"(c) Local Distributor's License. A Local Distributor's License shall authorize the holder thereof to serve free beer for consumption on the licensed premises, and to sell and distribute beer to Retail Dealers, ultimate consumers and others in the county of his residence only in the unbroken original packages in which it is received by him from the Manufacturer, General Distributor, or Branch Distributor; and such sales may be made to other Local Distributors licensed to sell beer only in the county of the selling Distributor's residence. Annual State fee for a Local Distributor's License shall be One Hundred Dollars (\$100).

"(d). Branch Distributor's License. The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a Branch Distributor's License for each such place of business as herein provided, and such Branch Distributor may serve free beer for consumption on the licensed premises. Application for a renewal of a Branch Distributor's License may be made concurrently with the filing of the application for the renewal of

a Manufacturer's or General Distributor's License, and all Branch Distributor's Licenses shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch Distributor's License shall be One Hundred Dollars (\$100); provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Eight Dollars and Thirty-three Cents (\$8.33) for each month or fraction thereof for which the license is issued.

"To obtain a Branch Distributor's License the applicant therefor shall make application in the same manner as provided in Section 6 of Article II of this Act.

"The renewal of a Branch Distributor's License shall be made in the manner as provided in Section 7 of Article II of this Act, and application for renewal may be made concurrently with application for a renewal of the primary license. The privileges of a Branch Distributor's License shall be the same as a General Distributor's License as provided in this Section.

"If by local option the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it being further provided that any such Manufacturer or Distributor may, upon the expiration of any such Branch License, immediately thereafter obtain, in any county wherein a Branch License has been held, a primary Manufacturer's or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought.

"(e). Retail Dealer's On-Premise License. A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer's On-Premise License shall be Fifty Dollars (\$50).

"(f). Retail Dealer's Off-Premise License. A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not

for resale and not to be opened or consumed on or near the premises where sold. Annual State fee for a Retail Dealer's Off-Premise License shall be Twenty Dollars (\$20.00)."

Sec. 3. This Act shall in nowise affect any Wine and Beer Retailer's Permit, General Distributor's License, Local Distributor's License, Branch Distributor's License, Retail Dealer's On-Premise License, or Retail Dealer's Off-Premise License in effect on the effective date hereof, but the fees provided herein shall apply on the renewal of any such permit or license, and on the original of any permit or license named herein and issued on or after said effective date of this Act.

ARTICLE IV

Section 1. There is hereby levied an occupation tax on each person, firm, association, or corporation who owns, controls, manages, leases, or operates any uranium ore mine, or mines, wells, or shafts, or who produces uranium by any method, system, or manner within this state.

Sec. 2. The tax shall be an amount equal to five per cent (5%) of the market value of all uranium ore produced.

Sec. 3. (a) Each person subject to the tax levied by this Article shall make quarterly, on the first day of January, April, July, and October of each year, or within ten (10) days after each such date, a report to the Comptroller in this State, sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of uranium ore produced within this State by said person during the quarter preceding, and the average market value thereof.

(b) At the time of making such report, each person shall pay to the Treasurer of this State the tax for the quarter preceding.

(c) The Comptroller may require such other information and such additional information as he may deem advisable.

(d) The Comptroller is hereby authorized to secure copies of all purchase vouchers issued by the Federal Government for the purchase of uranium ore to enable him to keep complete records of the market value of all ore sold within this State.

Sec. 4. (a) Each person subject to the payment of this tax shall cause to be made, kept, and preserved a full and complete record of all uranium ore produced in this State by him, all of which records shall be open at all times to official inspection and examination by the Comptroller or the Attorney General, or any employee of or representative of the Comptroller or the Attorney General.

(b) Said records may be destroyed after three (3) years from the last entry appearing in any such records.

(c) Any person failing to keep such records, as herein required, shall forfeit to the State of Texas as a penalty, a sum not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000) payable to the State of Texas, and each ten (10) days of failure to keep such records shall constitute a separate offense and subject the offender to additional penalties for each such period.

Sec. 5. (a) Any person subject to the payment of this tax failing to pay the tax levied by this Article within thirty (30) days after the same is due and payable shall pay to the State as a penalty an additional amount equal to ten per cent (10%) of the taxes due, and such tax and penalty shall draw interest at the rate of six per cent (6%) per annum from the due date until paid.

(b) The Attorney General, or any district or county attorney at the direction of the Attorney General, shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest due and payable by any person affected by this Article.

Sec. 6. One-fourth ($\frac{1}{4}$) of the occupation tax hereby imposed and collected and constitutionally allocated to the Available Free School Fund, shall be set aside to such purposes, with the remaining three-fourths ($\frac{3}{4}$) of the revenues to accrue to the credit of the General Revenue Fund of this State.

ARTICLE V

Section 1. Article 7084 of the Revised Civil Statutes of Texas, 1925, as last amended by Section 1 of Article III of Chapter 2, Acts of the Fifty-third Legislature, First Called Session, 1954, is hereby amended to read as follows:

"Article 7084. Amount of Tax.

"(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered

or authorized to do business in Texas, or doing business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the stated capital, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), as the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty-five Dollars (\$25) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value for county ad valorem tax purposes, of the property owned by the corporation in this State. Stated capital as applied to corporations without stated capital shall mean the net assets of such corporation. As used in this Act, the phrase 'stated capital' shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act.

"(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations incorporated only for the purpose of owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations incorporated only for the purpose of maintaining or owning or operating electric inter-urban railways, shall be required to

hereafter pay a franchise tax equal to one-fifth ($\frac{1}{5}$) of the franchise tax herein imposed against all other corporations under Section (1) herein.

"(3) Except as provided in preceding Clause (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose rates or services are regulated, or subject to a regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the stated capital, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bear to its total gross receipts instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on the basis of Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof.

"For the purpose of computing the tax of corporations issuing shares without par value, such shares shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such shares shall furnish the Secretary of State with the same information now required of domestic corporations issuing such shares.

"The tax levied herein shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State.

"(4) Corporations engaged partly in the business of a public utility as defined in Clause (3) and partly in business embraced in Clause (1) shall pay the franchise tax in the following manner: as to those businesses which come under Clause (1) the tax shall be computed as provided in Clause (1) on that proportion of the entire taxable capital under said Clause (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause (3) the tax shall be computed as provided in Clause (3) on that portion of the entire taxable capital under said Clause (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in com-

puting the proportion of Texas capital under Clauses (1) and (3).

"(5) A corporation now required to pay a separate franchise tax for each purpose or business authorized by its charter shall hereafter pay only the tax provided hereunder for one purpose, and, until said corporation adopts the provisions of the Texas Business Corporation Act, it shall, in addition, pay one-fourth of such amount for each additional purpose named in its charter, provided, however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided further that this Article does not amend, alter, or change in any wise any provisions of Chapter 86, page 163, 45th Legislature Acts 1937, and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law."

Sec. 2. Subsection (1) of Article 7086 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"(1) Whenever private domestic corporation is chartered in this State whenever a foreign corporation applying for a permit has theretofore done no business in Texas, its initial tax shall be payable within ninety (90) days after the expiration of one (1) year from the date of the filing of such charter or the granting of such permit, as the case may be, at which time the tax shall be computed according to its first year's business as prescribed by Article 7084, Revised Civil Statutes of Texas, as amended, and at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including April 30th following.

"When such corporation's first year from the filing of its charter or from the granting of its permit ends between January first and May first, there shall also be computed and paid an additional year's tax for the year beginning May first following the end of the first year as above defined, which tax shall be computed from the data contained in the first report filed by such corporation."

Sec. 3. That Article 7089 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"Article 7089. Report of Corporation.

"(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January first and March fifteenth of each year, make a sworn report, in duplicate, to the Secretary of State, on forms furnished by that officer, showing the condition of such corporation on the last day of the preceding fiscal year. The Secretary of State may for good cause shown by any corporation extend such time to any date up to May first. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock actually subscribed, and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-annual, quarterly, or monthly dividend, the assessed value, for county ad valorem tax purposes of all property of the corporation, real, personal or mixed, owned by the corporation in this state and the county in which assessed for such purposes, the amount of all taxes paid, or due and payable to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss statement in such form as the Secretary of State may prescribe. Where a domestic corporation is chartered in this State or where a foreign corporation which has heretofore done no business in this State and is granted a permit to do business in Texas, it shall file its first report within ninety (90) days from the expiration of one year from the date such charter was filed or permit was granted, as the case may be, showing its condition as of the end of such first year. Any corporation which shall fail or refuse to make its report when due shall be assessed a penalty of five (5%) per cent of the amount of franchise tax due by such corporation which shall be payable to the Secretary of State, together with its franchise tax. Said report shall be deemed to be privileged and not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corpora-

tion, may examine such returns upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosures, or use, shall be permitted of said report except in the course of some judicial proceedings in which the state or any bona fide stockholder is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, State Auditor and the State Tax Commissioner; provided that the Secretary of State, in his discretion, upon good cause shown, may disclose to any interested person the names of the officers and directors and agents for service and the principal office and place of business of any corporation as disclosed by the franchise tax reports. Each report shall be sworn to by either the president, vice-president, secretary, treasurer or general manager, and shall give the name and address of each officer and director. In order to provide a means for service of process to collect any franchise tax or penalties, and in all other cases, each corporation, either domestic or foreign, shall, for such purpose, designate some person residing in this State whose name and address shall be given in each report. The forms hereinbefore prescribed shall contain such other information as the Secretary of State may require; and the Secretary of State shall have the power and authority to make and publish rules and regulations, not inconsistent with any existing laws or with the Constitution of this State or of the United States, for the enforcement of the provisions of this Article. The Secretary of State may require any corporation to furnish such additional information from its books and records as may be necessary in determining the amount of taxes that may be due hereunder. The Secretary of State or his authorized representative or the State Auditor or his authorized representative shall have full and complete authority to investigate and inquire into and examine the books and records of any such corporation for the purpose of ascertaining the correctness of its franchise tax liability.

"Any foreign corporation doing business in Texas under a permit granted under the laws of this State,

or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Secretary of State, or his authorized representative, or the State Auditor or his authorized representative to examine its books and records, whether the same be situated within this State or any other state within the United States, shall thereby forfeit its right to do business in this State; and its permit or charter shall be cancelled or forfeited."

Sec. 4. That Article 7091 of the Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 7091. Failure to Pay Tax.

"Any corporation, either domestic or foreign which shall fail to pay any franchise tax provided for in this Chapter when the same shall become due and payable under the provisions of this Chapter, shall thereupon become liable to a penalty of ten (10%) per cent of the amount of such franchise tax due by such corporation. If the reports required by Article 7087 or Article 7089 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the thirtieth day after notice of delinquency is mailed to such corporation as provided in Article 7092, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation the words, 'right to do business forfeited' and the date of such forfeiture. Any corporation whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this State, except in a suit to forfeit the charter or permit of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation, which shall include all franchise taxes and penalties thereon which shall become due and payable

subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporations were partners."

Sec. 5. That Article 7092 of the Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 7092. Notice of Forfeiture.

"The Secretary of State shall notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the first day of May, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid within thirty (30) days of the mailing of such notice, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. Such notice may be either written or printed and shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of such corporation. A record of the date of mailing such notice shall be kept in the office of the Secretary of State, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Secretary of State at any time prior to the forfeiture of the charter or permit of such a corporation as hereinafter provided, the full amount of the franchise taxes and penalties due by it, together with an additional amount of five (5%) per cent of such taxes for each month, or fractional part of a month, which shall elapse after such forfeiture as a revival fee; provided, that such amount shall in no case be less than five dollars (\$5). When such taxes and penalties and the revival fee shall

be paid to the Secretary of State, he shall revive the right of the corporation to do business within the State by cancelling the words 'right to do business forfeited,' upon his record and endorsing thereon the word 'revived,' and the date of such revival. If any domestic corporation or foreign corporation, whose right to do business within this State shall hereafter be forfeited under the provisions of this Chapter, shall fail to pay the Secretary of State within one hundred and twenty (120) days after such forfeiture, the amount necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture, by judgment of any court of competent jurisdiction, of the charter of such domestic corporation, or of the permit of such foreign corporation. It shall be the duty of the Secretary of State, after such one hundred and twenty (120) days next following such forfeiture, to certify to the Attorney General the names of all corporations, domestic and foreign, whose right to do business within this State shall have been forfeited as hereinbefore provided, and upon receiving such certificate the Attorney General shall forthwith institute suits against such corporations under the provisions of Article 7095, Revised Civil Statutes, as amended."

Sec. 6. Article 7094 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 143, Acts of the Fifty-second Legislature, 1951 is hereby amended to read as follows:

"Article 7094.

"The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or

for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes."

Sec. 7. Section 1 of this Article shall become effective on the first day of September, 1955, if this Act receives sufficient votes to make it effective at that time. In that event, as to the fiscal year May 1, 1955, to May 1, 1956, any corporation owing taxes under this Article and which has already paid franchise taxes for such fiscal year shall pay to the Secretary of State, on or before September 1, 1955, in addition to the amount already paid, an amount equal to 2/27 of the amount of tax levied in Section 1 of this Article.

Should Section 1 of this Article not become effective on September 1, 1955, it shall become effective on October 1, 1955. In that event, as to the fiscal year May 1, 1955, to May 1, 1956, any corporation owing taxes under this Article and which has already paid franchise taxes for such fiscal year shall pay to the Secretary of State on or before October 1, 1955, in addition to the amount already paid, an amount equal to 7/108 of the amount of tax levied in Section 1 of this Article.

Should any corporation which has paid the \$25.00 minimum tax prior to the effective date of this Article, owe an excess of such a minimum by virtue of Section 1 of this Article, such excess shall be paid on or before September 1, 1955, or October 1, 1956, whichever may be the effective date of Section 1 of this Article.

ARTICLE VI

Section 1. Amend Article XX, House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature as amended, and carried in Vernon's Texas Civil Statutes (Annotated) as Article 7083a, by adding a new subsection to be numbered 4-c to read as follows:

The allocations provided for in Section 2 of Article 7083a, Vernon's Texas Civil Statutes (Annotated), shall be made in the following manner:

A. Of the amount in the Clearance Fund the following allocations shall be made on the first of each month,

after the amounts for enforcement and the one-fourth ($\frac{1}{4}$) to the Available School Fund are taken out:

First. Sec. 2. (4-b) Farm to Market Road Fund

Second. Sec. 2. (1) Blind Assistance Fund

Third. Sec. 2. (2) Children Assistance Fund

Fourth. Sec. 2. (3) Teacher Retirement System

Fifth. Sec. 2. (4) Old Age Assistance

B. The cash balance in the fund on the fifth (5th) working day of the month shall be allocated on the fifth (5th) working day of the month in the following manner, after the amounts for enforcement and the one-fourth ($\frac{1}{4}$) to the Available School Fund are taken out:

First. Sec. 2 (4-a) Foundation School Fund

Second. Balance to General Revenue Fund

ARTICLE VII

Section 1. If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circumstances, is declared to be invalid, it shall not affect any of the remaining provisions of said Act, and the Legislature hereby declares it would have passed said remaining provisions without the invalid provisions, and to this end the provisions of this Act are declared to be severable.

Section 2. The crowded condition of the calendar creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is suspended, and this Act shall take effect from the first day of September, 1955, and it is so enacted.

The amendment was read.

(Senator Weinert in the Chair.)

Senator Hazlewood offered the following substitute for the amendment by Senator Lock:

Amend House Bill 660 by striking out all below the enacting clause and substituting therefor the following:

ARTICLE I

Section 1. That Section 2 of House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended (codified as Section 2 of Article 7047c-1, Vernon's

Texas Civil Statutes) be, and the same is hereby amended so as to hereafter read as follows:

"Sec. 2. (a) A tax of Two Dollars (\$2) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Four Dollars and Ten Cents (\$4.10) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

"(b) Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required; provided further, that such stamps shall not be required to be purchased and affixed to sample packages of cigarettes containing no more than five (5) cigarettes per package when the manufacturer of the cigarette reports and pays the said tax thereon directly to the State.

"(c) Provided, that the tax imposed by this Act shall be in lieu of any occupation or excise tax imposed by the State or any political subdivision thereof, on cigarettes.

"(d) Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only and shall be purchased from and sold only by said Treasurer, except as hereinafter provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22, and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then

and in that event the offender may purchase the required stamps from any distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately and under the direction of the Comptroller and the Comptroller shall have the authority to issue such requisition which shall be made in triplicate on a form prescribed by the Comptroller with the printed words 'Original,' 'Duplicate,' and 'Triplicate,' on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer which have not been used and it shall be the duty of said Treasurer upon receipt of such recalled stamps to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller.

"(e) From the effective date of this Act, the net revenue derived from the tax levied by this Section 2 shall be allocated as follows: One-fourth ($\frac{1}{4}$) shall be credited to a special fund known as the State Hospitals and Special Schools Building Fund heretofore created by the Legislature; one-fourth ($\frac{1}{4}$) of the balance of the net revenue shall be credited to the State Available School Fund; and three-fourths ($\frac{3}{4}$) shall be credited to the Clearance Fund established by House Bill No. 8, Acts of the Forty-seventh Legislature, 1941, page 269, Chapter 184; provided, however, that not in excess of Five Million Dollars (\$5,000,000) shall be credited to the State Hospitals and Special Schools Building Fund for the biennium ending August 31, 1955, and not in excess of Five Million Dollars (\$5,000,000) for each fiscal year thereafter shall be credited to such fund. Any balance in excess of such Five Million Dollars (\$5,000,000) in any fiscal year shall be transferred to and become a part of the State Hospital Fund heretofore created by the Legislature, which is and shall be the same State Hospital Fund as provided

for in House Bill No. 3 of the First Called Session of the Fifty-first Legislature.

"This section shall supersede the provisions of the Section 2 contained in subdivision (b) of Section 1 of House Bill No. 2, Chapter 1, Acts, First Called Session, Fifty-first Legislature."

Section 2. That House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended, be, and the same is hereby amended by adding a new section following Section 2 and to be known as Section 2 $\frac{1}{2}$ and to read as follows:

Sec. 2 $\frac{1}{2}$. (a) In addition to the tax levied by Section 2 herein, there is hereby imposed a tax of Fifty Cents (50¢) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Fifty Cents (50¢) per thousand on those weighing more than three (3) pounds per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

"(b) Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required; provided, further, that such stamps shall not be required to be purchased and affixed to sample packages of cigarettes containing no more than five (5) cigarettes per package, when the manufacturer of the cigarettes reports and pays the said tax thereon directly to the State.

"(c) From the effective date of this

Act the net revenue derived from the tax levied under this Section 2½ shall be credited to the General Fund of this State. Provided, no portion of the revenues derived under this Section 2½ shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided further, the net revenues collected under this Section 2½ may be credited daily to the Clearance Fund heretofore referred to in this Act and on the first day of each month following the collection of the net revenues derived under this Section 2½ the said net revenues shall be credited to the General Fund; it being specifically understood that no portion of the said net revenues of this Section 2½ shall remain or be distributed under the provisions governing the said Clearance Fund."

Section 3. That Section 3 of House Bill No. 755, Chapter 241, Acts of the Forty-fourth Legislature, 1935, page 575, as amended (codified as Section 3 of Article 7047c-1, Vernon's Texas Civil Statutes), be, and the same is hereby amended so as to hereafter read as follows:

"Sec. 3. (a) A 'Cigarette Tax Stamp Board' composed of the Board of Control of this State, designated hereafter as the 'Board,' is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

"(b) The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that

the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit at a discount of four (4%) per cent of three-fourths (¾) of the face value; provided, that no discount shall be allowed to out-of-state purchasers residing in the states that do not give discounts on cigarette tax stamps purchased from said states by Texas cigarette distributors; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same, such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equalling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

"(c) The State Treasurer is hereby required to redeem at face value any unsued cigarette tax stamps lawfully issued prior to such change in denomination and in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps for cigarette tax stamps of the new denomination. After the effective date of this Act, every person having in his possession stamps of the old denomination shall send them to the Treasurer for exchange at face value for stamps of the new denomination. Such exchange shall be made within thirty (30) days after the effective date of this Act, and it shall be unlawful for any person to have in his possession any stamps of the old denomination after the expiration of thirty (30) days from the effective date of this Act. It shall further be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old denomination are affixed. After the expiration of thirty (30) days from the effective date of this Act, stamps of the old denomination shall be void,

provided, that stamps removed from cigarettes determined by the Comptroller to be unsalable may be redeemed under rules and regulations promulgated or hereafter promulgated by the Comptroller. Every retail dealer and wholesale dealer having cigarettes to which stamps of the old denomination are affixed in his stock in quantities of two thousand (2,000) or more on the effective date of this Act shall immediately inventory the same and file a report of such inventory to the Comptroller and attach to such inventory a cashier's check payable to the State Treasurer in a sum equal to the amount of additional tax due on such cigarettes computed at the new rate provided in this Act. Such retail dealer or wholesale dealer shall retain as a receipt to evidence payment of the tax a purchaser's copy of the cashier's check and shall retain a copy of the inventory reported to the Comptroller.

"(d) All funds credited to the State Hospitals and Special Schools Building Fund under this Act are hereby appropriated to the Board for Texas State Hospitals and Special Schools for the purpose of constructing, repairing and equipping such buildings as in the opinion of the Board are necessary to the proper care of those committed or to be committed to such hospitals and special schools according to the law. Provided, however, the fees paid to an architect shall not exceed six per cent (6%) for the plans, specifications and supervisions of said buildings and all contracts made for and the final acceptance in connection with such construction other than the plans and specifications, shall be subject to the review and approval of the Board of Control.

"(e) All unexpended balances of funds appropriated to the said Board existing at the end of this or any succeeding biennium shall revert and be returned to the State Hospitals and Special Schools Building Fund.

"(f) The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever

a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of the issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of a new design; provided, it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purposes of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

"Any person who shall have in his possession any cigarette tax stamps of the old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

"(g) Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

"The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

"(h) Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps

ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided, further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamps.

"(i) Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided, further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided.

"This section shall supersede the provisions of the Section 3 contained in subdivision (b) of Section 2 of House Bill No. 2, Chapter 1, Acts, First Called Session, Fifty-first Legislature."

ARTICLE II

Section 1. That subsection (a) of Section 2 of Article XVII, House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, 1941, Regular Session (which is codified as Article 7065b-2(a) Vernon's Civil Statutes) be and the same is hereby amended to read as follows:

"Section 2. (a) There shall be and is hereby levied and imposed (except as hereinafter provided) upon the

first sale, distribution, or use of motor fuel in this State an excise tax of five cents (5c) per gallon or fractional part thereof so sold, distributed, or used in this State. Every distributor who makes a first sale or distribution of motor fuel in this State for any purpose whatsoever shall, at the time of such sale or distribution, collect the said tax from the purchaser or recipient of said motor fuel, in addition to his selling price, and shall report and pay to the State of Texas the taxes collected at the time and in the manner as hereinafter provided. Every such distributor shall also be liable to the State of Texas for the said tax of five cents (5c) per gallon on each gallon of motor fuel or fractional part thereof used or consumed by him, and shall report and pay said tax as hereinafter provided. In each subsequent sale or distribution of motor fuel upon which the tax of Five Cents (5c) per gallon has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said motor fuel for the purpose of generating power for the propulsion of any motor vehicle upon the public highways of this State.

"It is the intent and purpose of this Article to collect the tax levied herein at the source of said motor fuel in Texas or as soon thereafter as the same may be subject to being taxed. No person, however, shall be required to pay a tax on motor fuel brought into this State in a quantity of thirty (30) gallons or less in a fuel tank, with a capacity of not more than thirty (30) gallons, when said fuel tank is connected with and feeds the carburetor of said motor vehicle and the motor fuel contained therein is used in the operation of said motor vehicles and not otherwise."

Sec. 2. That subsection (a) of Section 14, Article XVII, Chapter 184, Acts of the Forty-seventh Legislature, 1941, Regular Session, as amended by Section 3, Chapter 298, Acts of the Forty-eighth Legislature, 1943, Regular Session as amended by Section 5, Section XXII, Chapter 402, Acts of the Fifty-second Legislature, 1951, Regular Session (which is codified as Article 7065b-14(a) Vernon's Civil Statutes) be and the same is hereby amended to read as follows:

"Section 14. (a). There is hereby levied and imposed an excise tax of five cents (5c) per gallon on all lique-

fied gas used, or delivered into a fuel tank for use in propelling a motor vehicle upon the public highways of Texas, and six and five-tenths cents (6.5c) per gallon on all other liquid fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highways of Texas, and every user-dealer who sells and delivers liquefied gas or other liquid fuels into a fuel tank or tanks used to supply fuel for the propulsion of any licensed motor vehicle or any other motor vehicle being operated or intended to be operated upon the public highways of this State shall, at the time of such sale and delivery, collect the said tax at the rate or rates imposed from the purchaser or recipient of said special fuels, in addition to his selling price, and shall report any pay to the State of Texas the tax so collected at the time and in the manner as herein provided. Every user-dealer shall likewise report and pay to the State of Texas, the tax at the rate or rates imposed hereinabove on each gallon of liquefied gas or other liquid fuels, hereinafter referred to as special fuels, acquired in any manner tax free by said user-dealer and thereafter used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highways of Texas.

"It is the intent and object of this Section that the tax or taxes imposed herein on special fuels, as that term is defined, shall be paid by the persons using or consuming said special fuels to generate power for the propulsion of motor vehicles upon the public highways of this State, and the granting of a permit to user-dealers to collect said excise taxes for and in behalf of the State of Texas shall be deemed to establish a fiduciary relationship. Provided, however, that no tax shall be imposed upon the sale or delivery of special fuels to the United States Government for its exclusive use.

"Provided that no tax shall be paid on special fuels brought into Texas in quantities of not more than thirty (30) gallons in a fuel tank connected to and feeding the carburetor of a motor vehicle entering the State; if said quantities exceed thirty (30) gallons, the tax and penalties shall apply to the full amount being used on the Texas highways. Provided, further, that a licensed user-dealer may deduct from his report and tax remittance

the tax on one per cent (1%) of the taxable gallonage to cover the expenses of collecting the taxes, keeping records, making reports and furnishing bond."

Provided, however, the tax free importations of special fuels in fuel tanks shall not apply to motor vehicles operating over the Texas highways for hire or compensation or for commercial purposes, and it is expressly provided that every person importing special fuels in a fuel tank of a motor vehicle used to transport passengers or merchandise over the Texas Highways for hire or compensation, or used on the Texas highways for other commercial purposes, shall qualify as a licensed user-dealer in Texas and shall report and pay the tax on all special fuels imported and used to propel motor vehicles upon the public highways of Texas as hereinafter provided. Such user-dealers shall maintain a complete and accurate record of the total miles traveled in Texas and elsewhere by each motor vehicle using special fuels both within and without the State of Texas, and such other records as the Comptroller may prescribe by rule and regulation. In case it is not practicable for a user-dealer to accurately measure the special fuels in the fuel tank of his motor vehicle when entering the State the Comptroller may determine the gallons of special fuels used in this State by dividing the total miles traveled in Texas by the applicable mileage factor, as hereinafter set forth: For motor vehicles with a gross loaded weight capacity of less than twenty-two thousand five hundred (22,500) pounds, the mileage factor shall be eight (8); for all motor vehicles with a gross loaded weight capacity of twenty-two thousand five hundred (22,500) pounds or more, the mileage factor shall be five (5); for any motor vehicle in which the user-dealer has kept an accurate record acceptable to the Comptroller of the total miles traveled and the total gallons of special fuels used in such travel, the mileage factor shall be the average miles per gallon traveled by said motor vehicle as determined from dividing the total miles traveled in Texas and elsewhere by the total gallons of fuel used in such travel, and the Comptroller is hereby authorized to accept and approve the payment of taxes on such basis.

Provided, however, that all taxes, penalties and interest accruing to the

State of Texas before the effective date of this Act by virtue of the amended or re-enacted provisions of Chapter 184, Article XVII, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, as further amended by Section XXII, Chapter 402, Acts of the Regular Session of the 52nd Legislature, and all taxes, penalties and interest accruing under the provisions of pre-existing gasoline, motor fuel or special fuels tax laws, prior to the effective date of this Act, shall be and remain valid and binding obligations due the State of Texas, and such taxes, penalties and interest are hereby declared to be legal and valid obligations to the State, and all liens and other obligations created and all bonds executed to secure their payment under the terms of said amended or re-enacted Act are hereby declared to be and shall remain in full force and effect. It is further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such above amended and re-enacted Act before the effective date of this Act, shall be affected by the amendment herein of any such laws, but the punishment of such offense and recovery of such fines and forfeitures shall take place as if the law amended and re-enacted had remained in force.

Sec. 3. That Article XVII of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, Regular Session (codified as Article 7065b, Section 1 through 29, Vernon's Annotated Civil Statutes of Texas), as amended, be and the same is hereby amended by adding thereto a new Section to be denominated Section 14a, and to be inserted between Sections 14 and 15 thereof, which new Section 14a shall read and provide as follows:

"Section 14a. Provided, however, that in lieu of the taxes hereinabove levied by Subdivision (a) of Section 2 hereof and by Section 14 hereof, there shall be and are hereby levied, excise taxes as follows:

"(a) An excise tax of four cents (4¢) per gallon or fractional part thereof upon the first sale, distribution or use of motor fuel in this State; and

"(b) An excise tax of Four Cents (4¢) per gallon or fractional part thereof on all users of liquefied gases, and of Six Cents (6¢) per gallon or fractional part thereof on all users

of other liquid fuels, upon the use of such liquefied gases and other liquid fuels within this State only when such liquefied gases and other liquid fuels are used in an internal combustion engine for the generation of power to propel motor vehicles upon the public highways of this State.

"The taxes levied herein shall be applicable only when such motor fuel, liquefied gases and other liquid fuels are used or consumed, or are to be used or consumed by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts. Said taxes shall be collected and paid in the same manner as the taxes levied by Subdivision (a) of Section 2 and by Section 14 hereof.

"Where the first sale, distribution or use of motor fuel, or the use of liquefied gases or other liquid fuels, in this State, is to or by a transit company, and such company shall furnish to the distributor or seller, or to the Comptroller of Public Accounts, as the case may be, an affidavit to the effect that it possesses the aforementioned four (4) characteristics and that it will use such motor fuel, liquefied gases or other liquid fuels only in the operation of its transit vehicles, the distributor or seller, or the Comptroller of Public Accounts, as the case may be, shall collect from such transit company only the taxes levied herein.

"Where the first sale or distribution of motor fuel in this State is not to a transit company, with the result that the distributor or seller has collected the tax levied by Subdivision (a) of Section 2 hereof, but such motor fuel is thereafter sold or distributed to, or used by, a transit company, such transit company may obtain a refund in the amount of One Cent (1¢) per gallon or fractional part thereof of such motor fuel by conforming to the refund procedure set forth in Section 13 hereof, and by furnishing to the Comptroller of Public Accounts an affidavit to the effect that it possesses the aforementioned four (4) characteristics and that it has used, or will

use, such motor fuel only in the operation of its transit vehicles."

Section 4. Section 5 (a) of Article XVII, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended, be and the same is amended hereby to read hereafter as follows:

"Sec. 5 (a) The Comptroller may authorize and permit any person producing natural gasoline, casing-head gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas, in their natural and unrefined state, or any person operating a pipeline as a common carrier, or any licensed distributor of motor fuel in this State to make a sale, resale, or distribution of such products or of motor fuel, without collecting the tax levied herein, to any distributor holding a valid permit under the terms of this Article, when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the product is sold and purchased for the purpose of exportation, further refining, further processing, further treating, blending or compounding with other products to produce motor fuel, or for resale to the Federal Government for the exclusive use of said Federal Government, or for resale for some one or more of such purposes, and not otherwise. If the distributor purchasing said products without paying said tax shall thereafter sell, or distribute said products, either alone or when compounded with other products, in this State, for any purpose other than that hereinabove provided, he shall be required to collect and pay over to the State of Texas at the time and in the manner herein provided, the tax at the rate of five (5) cents per gallon upon each gallon or fractional part thereof sold or distributed. Said distributor shall also be liable for and shall be required to pay to the State of Texas said tax at the aforesaid rate upon each gallon of such motor fuel used by said distributor. Failure or refusal to collect and pay over to the State of Texas the tax on motor fuel so sold or distributed by said distributor, or to pay the tax on motor fuel used by said distributor, shall subject him to all the liabilities, penalties, forfeitures, interest and costs provided in this Article.

"This section shall supersede the provisions of House Bill No. 688, Acts, Regular Session, 54th Legislature."

ARTICLE III

Section 1. Section XX of Chapter 402, Acts, Regular Session, Fifty-second Legislature as amended by Article IV of Chapter 2, Acts, First Called Session of Fifty-third Legislature is hereby amended so as to read hereafter as follows:

SECTION XX

"Section 23 of Article II, of Texas Liquor Control Act, as amended, codified as Article 667-23, Vernon's Texas Penal Code, is amended hereby so as to read hereafter as follows:

'Section 23. There is hereby levied and assessed a tax at the rate of Five Dollars and Thirty Cents (\$5.30) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State.'

Sec. 2. The provisions of this Article shall become effective September 1, 1955.

ARTICLE IV

Sec. 1. Subsection (1) of Article 7086 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"(1) Whenever a private domestic corporation is chartered in this State or whenever a foreign corporation applying for a permit has theretofore done no business in Texas, its initial tax shall be payable within ninety (90) days after the expiration of one (1) year from the date of the filing of such charter or the granting of such permit, as the case may be, at which time the tax shall be computed according to its first year's business as prescribed by Article 7084, Revised Civil Statutes of Texas, as amended, and at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including April 30th following.

"Where such corporation's first year from the filing of its charter or from the granting of its permit ends between January first and May first, there shall also be computed and paid an additional year's tax for the year beginning May first following the end of the first year as above defined, which tax shall be computed from the data contained in the first report filed by such corporation.

Sec. 2. That Article 7089 of the Revised Civil Statutes of Texas, 1925,

as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"Article 7089. Report of Corporation.

"(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January first and March fifteenth of each year, make a sworn report, in duplicate, to the Secretary of State, on forms furnished by that officer, showing the condition of such corporation on the last day of the preceding fiscal year. The Secretary of State may for good cause shown by any corporation extend such time to any date up to May first. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock actually subscribed, and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-annual, quarterly, or monthly dividend, the assessed value, for county ad valorem tax purposes of all property of the corporation, real, personal or mixed, owned by the corporation in this State and the county in which assessed for such purposes, and the amount of all taxes paid, or due and payable to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss statement in such form as the Secretary of State may prescribe. Where a domestic corporation is chartered in this State or where a foreign corporation which has heretofore done no business in this State and is granted a permit to do business in Texas, it shall file its first report within ninety (90) days from the expiration of one year from the date such charter was filed or permit was granted, as the case may be, showing its condition as of the end of such first year. Any corporation which shall fail or refuse to make its report when due shall be assessed a penalty of five (5%) per cent of the amount of franchise tax due by such corporation which shall be payable to the Secretary of State, together with its franchise tax. Said report shall be deemed to be privileged and

not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corporation, may examine such returns upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosures, or use, shall be permitted of said report except in the course of some judicial proceedings in which the State or any bona fide stockholder is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, State Auditor and the State Tax Commissioner; provided that the Secretary of State, in his discretion, upon good cause shown, may disclose to any interested person the names of the officers and directors and agents for service and the principal office and place of business of any corporation as disclosed by the franchise tax reports. Each report shall be sworn to by either the president, vice-president, secretary, treasurer or general manager, and shall give the name and address of each officer and director. In order to provide a means for service of process to collect any franchise tax or penalties, and in all other cases, each corporation, either domestic or foreign, shall, for such purpose, designate some person residing in this State whose name and address shall be given in each report. The forms hereinbefore prescribed shall contain such other information as the Secretary of State may require; and the Secretary of State shall have the power and authority to make and publish rules and regulations, not inconsistent with any existing laws or with the Constitution of this State or of the United States, for the enforcement of the provisions of this Article. The Secretary of State may require any corporation to furnish such additional information from its books and records as may be necessary in determining the amount of taxes that may be due hereunder. The Secretary of State or his authorized representative or the State Auditor or his authorized representative shall have full and complete authority to investigate and inquire into and examine the books and records of any such corporation for the purpose of ascertaining the

correctness of its franchise tax liability.

"Any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Secretary of State, or his authorized representative, or the State Auditor or his authorized representative to examine its books and records, whether the same be situated within this State or any other state within the United States, shall thereby forfeit its right to do business in this State; and its permit or charter shall be cancelled or forfeited."

Sec. 3. That Article 7091 of the Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 7091. Failure to Pay Tax.

"Any corporation, either domestic or foreign which shall fail to pay any franchise tax provided for in this Chapter when the same shall become due and payable under the provisions of this Chapter, shall thereupon become liable to a penalty of ten (10%) per cent of the amount of such franchise tax due by such corporation. If the reports required by Article 7087 or Article 7089 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the thirtieth day after notice of delinquency is mailed to such corporation as provided in Article 7092, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation the words, 'right to do business forfeited' and the date of such forfeiture. Any corporation whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this State, except in a suit to forfeit the charter or permit of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation,

which shall include all franchise taxes and penalties thereon which shall become due and payable subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporations were partners."

Sec. 4. That Article 7092 of the Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 7092. Notice of Forfeiture.

"The Secretary of State shall notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the first day of May, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid within thirty (30) days of the mailing of such notice, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. Such notice may be either written or printed and shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of such corporation. A record of the date of mailing such notice shall be kept in the office of the Secretary of State, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Secretary of State at any time prior to the forfeiture of the charter or permit of such a corporation as herein-after provided, the full amount of the franchise taxes and penalties due by it, together with an additional amount of five (5%) per cent of such taxes for each month, or fractional part of a month, which shall elapse after such forfeiture as a revival fee; provided, that such amount shall in no case be less than five dollars (\$5). When such taxes and penalties and the revival fee shall be paid to the

Secretary of State, he shall revive the right of the corporation to do business within the state by cancelling the words 'right to do business forfeited,' upon his record and endorsing thereon the word 'revived,' and the date of such revival. If any domestic corporation or foreign corporation, whose right to do business within this State shall hereafter be forfeited under the provisions of this Chapter, shall fail to pay the Secretary of State within one hundred and twenty (120) days after such forfeiture, the amount necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture, by judgment of any court of competent jurisdiction, of the charter of such domestic corporation, or of the permit of such foreign corporation. It shall be the duty of the Secretary of State, after such one hundred and twenty (120) days next following such forfeiture, to certify to the Attorney General the names of all corporations, domestic and foreign, whose right to do business within this State shall have been forfeited, as hereinbefore provided, and upon receiving such certificate the Attorney General shall forthwith institute suits against such corporations under the provisions of Article 7095, Revised Civil Statutes, as amended."

Sec. 5. Article 7094 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 143, Acts of the Fifty-second Legislature, 1951, is hereby amended to read as follows:

"Article 7094.

"The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public

charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes."

ARTICLE V

Section 1. That Article XV of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, as amended by Section 1 of Senate Bill No. 141, Chapter 283, Acts of the Fiftieth Legislature, Regular Session, Article XVI of House Bill No. 3, Chapter 2, Acts of the Fifty-first Legislature, First Called Session, and by Section XVII of House Bill No. 285, Chapter 402, Acts of the Fifty-second Legislature, Regular Session (codified as Article 7047m, Vernon's Annotated Civil Statutes of Texas) be and the same is hereby repealed, save and except as to all sales, agreements to sell, memoranda of sales, deliveries or transfers, or certificates which became subject to tax under said Article, as amended, prior to the effective date of this Act, and as to all taxes, penalties, interest, reports, fines, forfeitures, obligations, or liabilities due, effective or accruing under said Article, as amended, prior to the effective date of this Act; and as to all such sales, agreements to sell, memoranda of sales, deliveries or transfers, or certificates, and as to all such taxes, penalties, interest, reports, fines, forfeitures, obligations or liabilities, and as to procedure in connection therewith, said Article shall remain in full force and effect; and all taxes, penalties, interest, reports, fines, forfeitures, obligations and liabilities owing to or due to the State of Texas on the effective date of this Act by virtue of said Article, as amended, shall remain and be valid and binding obligations to the State of Texas. Nothing in this Act shall prejudice the rights of the State of Texas in any lawsuit now pending or that may be brought hereafter either by or against the State for or on account of the collection of any tax, fine, interest, penalty or forfeiture that has accrued or may accrue by virtue of said article.

ARTICLE VI

Section 1. If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circum-

stances, is declared to be invalid, it shall not affect any of the remaining provisions of said Act, and the Legislature hereby declares it would have passed said remaining provisions without the invalid provisions, and to this end the provisions of this Act are declared to be severable.

Section 2. The crowded condition of the calendar creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is suspended, and this Act shall take effect from the first day of September, 1955, and it is so enacted.

HAZLEWOOD
WILLIS

The substitute for the amendment by Senator Lock was read.

Senator Phillips offered the following amendment to the substitute by Senator Hazlewood:

Amend H. B. 660 by adding a new article to be known as Article IIIA which shall read as follows:

ARTICLE IIIA

Section 1. Section XX of Chapter 402, Acts, Regular Session, Fifty-second Legislature as amended by Article IV of Chapter 2, Acts, First Called Session of Fifty-third Legislature is hereby amended so as to read hereafter as follows:

SECTION XX

"Section 23 of Article II, of Texas Liquor Control Act, as amended, codified as Article 667—23, Vernon's Texas Penal Code, is amended hereby so as to read hereafter as follows:

'Section 23. There is hereby levied and assessed a tax at the rate of Three Dollars and Thirty Cents (\$3.30) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State.'

Section 2. The provisions of this Article shall become effective September 1, 1955.

The amendment was read.

On motion of Senator Phillips and by unanimous consent, the amendment was withdrawn.

(President in the Chair.)

Senator Willis offered the following

amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute for Lock amendment to H. B. 660 by striking out the words "Five Dollars and Thirty Cents (\$5.30)" wherever they occur in Article III and inserting in lieu thereof the words "Six Dollars and Sixty Cents (\$6.60)."

The amendment was read.

On motion of Senator Willis and by unanimous consent, the amendment was withdrawn.

Senator Strauss offered the following amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute by striking out all references to the tax on beer.

The amendment failed of adoption by the following vote:

Yeas—9

Ashley	Rogers of Travis
Hardeman	Strauss
Kazen	Wagonseller
Latimer	Weinert
Parkhouse	

Nays—22

Aikin	Moffett
Bracewell	Moore
Colson	Owen
Corbin	Phillips
Fly	Ratliff
Fuller	Roberts
Hazlewood	Rogers
Kelley	of Childress
Lane	Secrest
Lock	Shireman
Martin	Willis
McDonald	

Senator Hardeman offered the following amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute for Lock amendment to H. B. 660 by striking out all of Article V.

HARDEMAN
WEINERT
LANE

The amendment to the substitute was adopted.

Senator Hardeman offered the following amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute for Lock amendment to H. B. 660, Art. I,

Sec. 1, Subsection 2(e), by changing the words and figures "Five Million Dollars (\$5,000,000)" where same appear in the first sentence of said Subsection "2(e)" to the words and figures Four Million Dollars (\$4,000,000) and changing the period after the word "fund" at the end of such first sentence to a semicolon and add the following:

"Provided, that not in excess of One Million Dollars (\$1,000,000) shall be credited to the Texas Prison Board's Building Fund No. 272 for the fiscal year ending Aug. 31, 1955, and not in excess of One Million Dollars (\$1,000,000) for each fiscal year of the biennium ending Aug. 31, 1957, shall be credited to such fund."

The amendment was read.

Question—Shall the amendment by Senator Hardeman to the substitute by Senator Hazlewood for the amendment by Senator Lock be adopted?

Recess

On motion of Senator Weinert the Senate at 12:15 o'clock p. m. took recess until 2:30 o'clock p. m. today.

After Recess

The President called the Senate to order at 2:30 o'clock p. m. today.

House Concurrent Resolution 175 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 175, Commending Madisonville Sidewalk Cattlemen's Association.

The resolution was read.

On motion of Senator Colson and by unanimous consent, the resolution was considered immediately and was adopted.

House Concurrent Resolution 124 on Second Reading

The President laid before the Senate as pending business H. C. R. No. 124 on its second reading (the resolution having been read the second time on yesterday).

Question—Shall H. C. R. No. 124 be adopted?

The resolution was then adopted.

Senate Resolution 401

Senator Rogers of Childress offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the Seniors of Friona High School, Friona, Texas, Parmer County, accompanied by their teachers, Mrs. McLean, Mr. Cook, and Mr. Ford; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Rogers of Childress, by unanimous consent, presented the students, Mrs. McLean, Mr. Cook and Mr. Ford to the Members of the Senate.

House Bills on First Reading

The following bills, received from the House, were read the first time and referred to the committee indicated:

H. B. No. 928, to Committee on Water Rights, Irrigation and Drainage.

H. B. No. 961, to Committee on Judicial Districts.

H. B. No. 943, to Committee on Counties and County Boundaries.

H. B. No. 729, to Committee on Civil Jurisprudence.

H. B. No. 826, to Committee on Educational Affairs.

H. B. No. 948, to Committee on Counties and County Boundaries.

H. B. No. 959, to Committee on Counties and County Boundaries.

Reports of Standing Committees

Senator Fly, by unanimous consent, submitted the following report:

Austin, Texas,
May 27, 1953.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom

was referred H. B. No. 943, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FLY, Chairman.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 27, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 946, A bill to be entitled "An Act creating the Two Mile Creek Conservation and Reclamation District of Calhoun County, prescribing the boundaries and finding a benefit to such territory, providing for the issuance of bonds by such district under certain circumstances; providing that the general laws shall be applicable to such district; enacting other provisions relating to the subject district to enable the district to function properly; and declaring an emergency."

H. B. No. 960, A bill to be entitled "An Act relating to juvenile boards in counties comprising the Second 9th Judicial District; amending Section 1 of Chapter 419, Acts of the 52nd Legislature, 1951, by changing the words 'Special 9th District Court' to read 'Second 9th District Court' to read 'Second 9th Judicial District'; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives.

House Bill 660 on Second Reading

The Senate resumed consideration of the pending business, same being H. B. No. 660 on its second reading with an amendment by Senator Lock and a substitute for the amendment by Senator Hazlewood and an amendment to the substitute by Senator Hardeman pending.

'Question—Shall the amendment by Senator Hardeman to the substitute by Senator Hazlewood for the amendment by Senator Lock be adopted?

On motion of Senator Rogers of Travis the amendment by Senator Hardeman was tabled by the following vote:

Yeas—19

Bracewell	Moffett
Colson	Moore
Corbin	Owen
Fuller	Parkhouse
Hazlewood	Phillips
Kazen	Rogers of Travis
Kelley	Secrest
Latimer	Shireman
Lock	Strauss
McDonald	

Nays—12

Aikin	Roberts
Ashley	Rogers
Fly	of Childress
Hardeman	Wagon seller
Lane	Weinert
Martin	Willis
Ratliff	

Senator Hardeman offered the following amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute for Lock amendment to H. B. No. 660, Art. I, Sec. 1, by adding immediately before the words "This section shall supersede * * *" the following words:

"After August 31, 1957, all revenue from taxes levied by this section except that allocated to the State Available School Fund shall be credited to the General Revenue Fund of the State."

The amendment to the substitute by Senator Hazlewood was adopted by the following vote:

Yeas—24

Aikin	McDonald
Ashley	Moffett
Bracewell	Owen
Colson	Ratliff
Corbin	Roberts
Fly	Rogers
Fuller	of Childress
Hardeman	Rogers of Travis
Hazlewood	Secrest
Kazen	Shireman
Lane	Wagon seller
Lock	Weinert
Martin	

Nays—7

Kelley	Phillips
Latimer	Strauss
Moore	Willis
Parkhouse	

Senator Hardeman offered the following amendment to the substitute by Senator Hazlewood:

Amend Hazlewood substitute for Lock amendment to House Bill 660 by striking out the entire Article IV and substituting therefor the following:

ARTICLE IV

Section 1. Article 7084 of the Revised Civil Statutes of Texas, 1925, as last amended by Section 1 of Article III of Chapter 2, Acts of the Fifty-third Legislature, First Called Session, 1954, is hereby amended to read as follows:

"Article 7084. Amount of Tax.

"(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the stated capital, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), as the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of Two Dollars (\$2) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty-five Dollars (\$25) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value for county ad valorem tax purposes, of the property owned by the corporation in this State. Stated capital as applied to corporations without stated capital shall mean the net assets of such corporation. As used in this Act, the phrase 'stated capital' shall have the same meaning

as defined in Article 1.02 of the Texas Business Corporation Act.

"(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations incorporated only for the purpose of owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations incorporated only for the purpose of maintaining or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth ($1/5$) of the franchise tax herein imposed against all other corporations under Section (1) herein.

"(3) Except as provided in preceding Clause (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose rates or services are regulated, or subject to a regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the stated capital, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bear to its total gross receipts instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on the basis of Two Dollars (\$2) per One Thousand Dollars (\$1,000) or fractional part thereof.

"For the purpose of computing the tax of corporations issuing shares without par value, such shares shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such shares shall furnish the Secretary of State with the same information now required of domestic corporations issuing such shares.

"The tax levied herein shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State.

"(4) Corporations engaged partly in the business of a public utility as defined in Clause (3) and partly in business embraced in Clause (1) shall pay the franchise tax in the following manner: as to those businesses which come under Clause (1) the tax shall be computed as provided in Clause

(1) on that proportion of the entire taxable capital under said Clause (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause (3) the tax shall be computed as provided in Clause (3) on that portion of the entire taxable capital under said Clause (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing the proportion of Texas capital under Clauses (1) and (3).

"(5) A corporation now required to pay a separate franchise tax for each purpose or business authorized by its charter shall hereafter pay only the tax provided hereunder for one purpose, and, until said corporation adopts the provisions of the Texas Business Corporation Act, it shall, in addition, pay one-fourth of such amount for each additional purpose named in its charter, provided, however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided further that this Article does not amend, alter, or change in any wise any provisions of Chapter 86, page 163, 45th Legislature Acts 1937, and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law.

Sec. 2. Subsection (1) of Article 7086 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"(1) Whenever a private domestic corporation is chartered in this State or whenever a foreign corporation applying for a permit has theretofore done no business in Texas, its initial tax shall be payable within ninety (90) days after the expiration of one (1) year from the date of the filing of such charter or the granting of such permit, as the case may be, at which time the tax shall be computed according to its first year's business as prescribed by Article 7084, Revised Civil Statutes of Texas, as amended, and at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including April 30th following.

"Where such corporation's first year from the filing of its charter or from the granting of its permit ends between January first and May first, there shall also be computed and paid an additional year's tax for the year beginning May first following the end of the first year as above defined, which tax shall be computed from the data contained in the first report filed by such corporations."

Sec. 3. That Article 7089 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 536, Acts of the Fifty-first Legislature, 1949, is hereby amended to read as follows:

"Article 7089. Report of Corporation.

"(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January first and March fifteenth of each year, make a sworn report, in duplicate, to the Secretary of State, on forms furnished by that officer, showing the condition of such corporation on the last day of the preceding fiscal year. The Secretary of State may for good cause shown by any corporation extend such time to any date up to May first. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock actually subscribed, and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-annual, quarterly, or monthly dividend, the assessed value, for county ad valorem tax purposes of all property of the corporation, real, personal or mixed, owned by the corporation in this state and the county in which assessed for such purposes, the amount of all taxes paid, or due and payable to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivisions of Texas for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss statement in such form as the Secretary of State may prescribe. Where a domestic corporation is chartered in this State or where a foreign corporation which has heretofore done no business in this State and is granted a permit to do business in Texas, it shall file its first

report within ninety (90) days from the expiration of one year from the date such charter was filed or permit was granted, as the case may be, showing its condition as of the end of such first year. Any corporation which shall fail or refuse to make its report when due shall be assessed a penalty of five (5%) per cent of the amount of franchise tax due by such corporation which shall be payable to the Secretary of State, together with its franchise tax. Said report shall be deemed to be privileged and not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corporation, may examine such returns upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosure, or use, shall be permitted of said report except in the course of some judicial proceedings in which the state or any bona fide stockholder is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, State Auditor and the State Tax Commissioner; provided that the Secretary of State, in his discretion, upon good cause shown, may disclose to any interested person the names of the officers and directors and agents for service and the principal office and place of business of any corporation as disclosed by the franchise tax reports. Each report shall be sworn to by either the president, vice-president, secretary, treasurer or general manager, and shall give the name and address of each officer and director. In order to provide a means for service of process to collect any franchise tax or penalties, and in all other cases, each corporation, either domestic or foreign, shall, for such purpose, designate some person residing in this State whose name and address shall be given in each report. The forms hereinbefore prescribed shall contain such other information as the Secretary of State may require; and the Secretary of State shall have the power and authority to make and publish rules and regulations, not inconsistent with any existing laws or with the Constitution of this State or of the United States, for the enforcement of the provisions of this Article.

The Secretary of State may require any corporation to furnish such additional information from its books and records as may be necessary in determining the amount of taxes that may be due hereunder. The Secretary of State or his authorized representative or the State Auditor or his authorized representative shall have full and complete authority to investigate and inquire into and examine the books and records of any such corporation for the purpose of ascertaining the correctness of its franchise tax liability.

Any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Secretary of State, or his authorized representative, or the State Auditor or his authorized representative to examine its books and records, whether the same be situated within this State or any other state within the United States, shall thereby forfeit its right to do business in this State; and its permit or charter shall be cancelled or forfeited."

Sec. 4. That Article 7091 of the Revised Civil Statutes of Texas, 1925, as amended, be amended to read as follows:

"Article 7091. Failure to Pay Tax.

"Any corporation, either domestic or foreign which shall fail to pay any franchise tax provided for in this Chapter when the same shall become due and payable under the provisions of this Chapter, shall thereupon become liable to a penalty of ten (10%) per cent of the amount of such franchise tax due by such corporation. If the reports required by Article 7087 or Article 7089 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the thirtieth day after notice of delinquency is mailed to such corporation as provided in Article 7092, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation the words, 'right to do business forfeited' and the date of such forfeiture. Any corporation whose right to do business shall be thus forfeited shall be denied the right to

sue or defend in any court of this State, except in a suit to forfeit the charter or permit of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation, which shall include all franchise taxes and penalties thereon which shall become due and payable subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporation were partners."

Sec. 5. That Article 7092 of the Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 7092. Notice of Forfeiture.

"The Secretary of State shall notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the first day of May, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid within thirty (30) days of the mailing of such notice, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. Such notice may be either written or printed and shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of such corporation. A record of the date of mailing such notice shall be kept in the office of the Secretary of State, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right

to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Secretary of State at any time prior to the forfeiture of the charter or permit of such a corporation as hereinafter provided, the full amount of the franchise taxes and penalties due by it, together with an additional amount of five (5%) per cent of such taxes for each month, or fractional part of a month, which shall elapse after such forfeiture as a revival fee; provided, that such amount shall in no case be less than five dollars (\$5). When such taxes and penalties and the revival fee shall be paid to the Secretary of State, he shall revive the right of the corporation to do business within the State by cancelling the words 'right to do business forfeited,' upon his record and endorsing thereon the word 'revived,' and the date of such revival. If any domestic corporation or foreign corporation, whose right to do business within this State shall hereafter be forfeited under the provisions of this Chapter, shall fail to pay the Secretary of State within one hundred and twenty (120) days after such forfeiture, the amount necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture, by judgment of any court of competent jurisdiction, of the charter of such domestic corporation, or of the permit of such foreign corporation. It shall be the duty of the Secretary of State, after such one hundred and twenty (120) days next following such forfeiture, to certify to the Attorney General the names of all corporations, domestic and foreign, whose right to do business within this State shall have been forfeited as hereinbefore provided, and upon receiving such certificate the Attorney General shall forthwith institute suits against such corporations under the provisions of Article 7095, Revised Civil Statutes, as amended."

Sec. 6. Article 7094 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 143, Acts of the Fifty-second Legislature, 1951, is hereby amended to read as follows:

"Article 7094.

"The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation com-

pany or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes."

The amendment to the substitute by Senator Hazlewood was adopted.

Senator Hazlewood's substitute, as amended, for the amendment by Senator Lock was then adopted by the following vote:

Yeas—18

Aikin	Owen
Bracewell	Phillips
Colson	Ratliff
Corbin	Roberts
Hardeman	Rogers
Hazlewood	of Childress
Lane	Secrest
Martin	Shireman
McDonald	Willis
Moffett	

Nays—13

Ashley	Moore
Fly	Parkhouse
Fuller	Rogers of Travis
Kazen	Strauss
Kelley	Wagonseller
Latimer	Weinert
Lock	

Senator Owen offered the following amendment to the amendment by Senator Hazlewood:

Amend the Hazlewood substitute to House Bill 660 by adding a new Article to be known as Article VIII-A to read as follows:

"Section 1. (1) In addition to all other taxes heretofore levied upon the occupation of producing gas, there is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

"Each producer shall pay a tax of .005 cents on each one thousand (1,000) cubic feet of residue gas produced by him and saved within this State.

"In calculating the tax herein levied, there shall be excluded:

"(a) Gas injected into the earth in this State, unless sold for such purpose;

"(b) Gas produced from oil wells with oil and lawfully vented or flared; and

"(c) Gas used for lifting oil unless sold for such purpose.

"(2) The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of each such producer to keep accurate records in Texas of all gas produced, making monthly reports under oath as hereinafter provided.

"(3) The purchaser of gas shall pay the tax for and in behalf of the producer on all gas purchased, making such payments to the Comptroller of Public Accounts by legal tender or Cashier's check payable to the State Treasurer; and same shall be remitted to the State Treasurer in accordance with the terms and provisions of this Act; and it shall be the duty of each such purchaser to keep accurate records in Texas of all such gas purchased as hereinafter provided.

"(4) The tax herein levied shall be due and payable at the office of the Comptroller at Austin on the last day of the calendar month, based on the amount of gas produced and saved during the preceding calendar month, and on or before said date each such producer and purchaser shall make and deliver to the Comptroller a verified report on forms prescribed by the Comptroller showing the gross amount of gas produced and purchased, less the exclusions and at the pressure base set out herein, upon which the tax herein levied accrues, together with details as to amounts of gas, from what leases said gas was produced, the correct name and address of the purchaser of said gas, and such other information as the Comptroller may desire; such report to be accompanied by legal tender or

cashier's check payable to the State Treasurer for the proper amount of taxes herein levied. In no event shall a producer be relieved of responsibility for the tax until same shall have been paid.

"(5) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

"Sec. 2. (1) For the purpose of this Act 'producer' shall mean any person owning, controlling, managing, or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters in this State, and shall include any person owning any royalty or other interest in any gas or its value whether produced by him, or by some other person on his behalf, either by lease, contract, or otherwise.

"(2) 'Purchaser' shall mean any person purchasing gas from the producer; in the event there is no purchaser of the gas in Texas, then the producer shall also be the 'purchaser' as that term is used in this Act.

"(3) 'Gas' shall mean natural and casing-head gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate and/or condensate, or other product.

"(4) (a) As to that gas containing gasoline or other liquefiable hydrocarbons that are removed or extracted at a plant in Texas by scrubbing, absorption, compression or any other process, the term 'residue gas' means that portion of the gas that flows through the outlet of such plant. In the event that such gas is processed in more than one such plant, then the term 'residue gas' means that portion of the gas that flows through the outlet of the first plant.

"(b) As to that gas which passes through a separator in Texas and which is not processed in a plant in Texas to remove or extract the gasoline or other liquefiable hydrocarbons, the term 'residue gas' means that portion of the gas remaining after its passage through such separa-

tor. In the event such gas passes through more than one separator then the term 'residue gas' means that gas remaining after its passage through the first separator.

"(c) As to that gas which passes through a drip or trap in Texas and which does not pass through a separator in Texas and which is not processed in a plant in Texas to remove or extract gasoline or other liquefiable hydrocarbons, the term 'residue gas' means that portion of the gas remaining after its passage through such drip or trap. In the event such gas passes through more than one drip or trap in Texas, then the term 'residue gas' means that portion of the gas remaining after its passage through the last drip or trap in Texas.

"(d) As to that gas which is measured by a meter and which does not pass through a drip or trap in Texas and which does not pass through a separator in Texas and which is not processed in a plant in Texas to remove or extract the gasoline or other liquefiable hydrocarbons, the term 'residue gas' means that gas that is measured by such meter. In the event such gas is measured by more than one meter in Texas, then the term 'residue gas' means that gas that is measured by the first meter.

"(5) The term 'casinghead gas' shall mean any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

"(6) 'Report' shall mean any report required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

"(7) 'Person' shall include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, or person acting under a declaration of trust as well as a trustee acting under such a declaration of trust.

"(8) 'Production' or 'total gas produced' shall mean the total gross amount of gas produced including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this Act shall be measured or determined by meter readings showing one hundred (100) per cent of the full volume expressed in cubic feet.

"(9) For the purposes of this Act, the term 'cubic foot of gas' or 'standard cubic foot of gas' means the volume of gas (including natural and

casinghead) contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws, corrected for deviation.

"(10) 'Royalty owners' shall mean and include all persons owning any mineral rights under any producing leasehold within this State, other than the working interest, which working interest is that of the person having the management and operation of the well.

"(11) 'Comptroller' shall mean Comptroller of Public Accounts of the State of Texas."

"Sec. 3. The term 'waste' in addition to its ordinary meaning and in addition to those matters specifically set forth in Sec. 3 of Article 6008 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 91, Acts of the 47th Legislature, Regular Session, shall include economic waste and shall specifically include the failure of a producer of gas to pass on to the purchaser of gas all production taxes levied upon the production of gas when the sales price of the gas is less than 11c per thousand (1,000) cubic feet. Provided, however, that it shall not constitute waste when the producer has passed on to the purchaser a sufficient portion of the production tax so that the sales price of the gas added to the part of the tax passed on to the purchaser shall equal or exceed 11c per thousand (1,000) cubic feet.

"Sec. 4. The legislature finds that a waste of gas both physical and economic, occurs if a producer of gas does not pass on production taxes to the purchaser of the gas as required in this Section; that if the producer absorbs all or a part of such taxes, the producer has in fact suffered a loss to his net profit just as if he had been required to sell the gas at a lower price; that low prices of gas make difficult the enforcement of existing laws for the prevention of waste and the conservation of gas, retard exploration and development, result in abandonment of wells long before all recoverable gas has been produced,

contribute substantially to an uneconomic rate of depletion, and encourage waste of gas by promoting inferior uses; and that such physical and economic waste of gas causes great suffering on the part of consumers of gas, both in Texas and in other consuming states, in that their supply is depleted at an earlier date."

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled by the following vote:

Yeas—18

Ashley	Phillips
Bracewell	Ratliff
Colson	Rogers of Travis
Hardeman	Secrest
Hazlewood	Shireman
Kazen	Strauss
Latimer	Wagonseller
Lock	Weinert
Parkhouse	Willis

Nays—13

Aikin	McDonald
Corbin	Moffett
Fly	Moore
Fuller	Owen
Kelley	Roberts
Lane	Rogers
Martin	of Childress

Senator Fly offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood substitute by adding a new Article to be known as Article V and which shall read as follows:

ARTICLE V

Section 1. That Article 7105, Revised Civil Statutes of the State of Texas, 1925, as amended by Chapter 184, Article XIII, of the Forty-seventh Legislature, Acts of 1941, be and the same is hereby amended and re-enacted to read hereafter as follows:

"Article 7105: Each incorporated railway company, ferry company, bridge company, turnpike, or toll company, oil pipe line company, natural gas pipe line company, gasoline pipe line company, any pipe line company transporting gas or petroleum products of any nature, whether such company be a private or public carrier, and all common carrier pipe line companies of every character whatsoever, engaged in the transportation of

oil, natural gas, gasoline, gas or petroleum products of any nature and in addition each 'motor bus company,' as defined in Chapter 270, Acts Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78, and each 'common carrier motor carrier' operating under certificates of convenience and necessity issued by the Railroad Commission of Texas, and each contract carrier motor carrier operating under a contract carrier motor carrier permit issued by the Railroad Commission of Texas, doing business wholly or in part within this State, whether incorporated under the laws of this State, or of any other State, territory, or foreign country, and every other individual, company, corporation, or association doing business of the same character in this State, in addition to the ad valorem taxes on intangible properties which are or may be imposed upon them respectively, by law, shall pay an annual tax to the State, beginning with the first day of January of each year, on their intangible assets and property, and local taxes thereon to the counties in which its business is carried on; which additional tax shall be assessed and levied upon such intangible assets and property in the manner provided for in Chapter 4, Title 122 of the Revised Civil Statutes of Texas, 1925. The intangible taxable values of said motor bus companies and said common carrier motor carriers and said contract carrier motor carriers shall be apportioned to the counties in or through which they operate in proportion to the distance in miles of the highways traversed by said carriers in each respective county. Provided, however, that Electric Interurban Railway Corporations are exempt from the provisions of this Article."

The amendment was read.

Senator Hazlewood moved to table the amendment.

The motion to table was lost by the following vote:

Yeas—9

Bracewell	Secrest
Hazlewood	Shireman
Parkhouse	Strauss
Phillips	Willis
Ratliff	

Nays—22

Aikin	Martin
Ashley	McDonald
Colson	Moffett
Corbin	Moore
Fly	Owen
Fuller	Roberts
Hardeman	Rogers
Kazen	of Childress
Kelley	Rogers of Travis
Lane	Wagonseller
Latimer	Weinert
Lock	

Question recurring on the amendment, it was adopted.

Senator Phillips offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood substitute for Lock Amendment to H. B. 660 by adding a paragraph to Article 1, Section One, Subsection 2(e) the following:

There shall be allocated and credited to the Medical Branch of The University of Texas located at Galveston the amount of One Million Dollars (\$1,000,000.00) per year of the next biennium for operation and maintenance of John Sealy Hospital.

And there shall also be allocated the sum of Three Hundred Thousand Dollars (\$300,000.00) to the Board of Pardons and Paroles for the implementing of the provisions of H. B. 120, Chapter 452, Acts, 50th Legislature.

And there is further allocated and appropriated to the Texas Commission on Alcoholism, the sum of Fifty Thousand (\$50,000.00) Dollars for the fiscal year ending August 31, 1956, and the sum of Forty-five Thousand (\$45,000.00) Dollars for the fiscal year ending August 31, 1957, to pay per diem, salaries and wages and other necessary operating expenses of the Commission. All salaries paid under the provisions of Act shall be in accordance with the salary standards as are found in the General Appropriation Bill as passed during the 54th Legislature.

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled by the following vote:

Yeas—19

Aikin	Fly
Ashley	Fuller
Colson	Hardeman

Hazlewood	Ratliff
Kelley	Roberts
Lane	Rogers of Travis
Latimer	Secrest
Lock	Shireman
Martin	Weinert
Owen	

Nays—12

Bracewell	Phillips
Corbin	Rogers
Kazen	of Childress
McDonald	Strauss
Moffett	Wagonseller
Moore	Willis
Parkhouse	

Senator Corbin offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment to H. B. 660 by adding the following:

Section 1. Each person, firm or corporation which extracts any mineral, chemical, or other substance from the waters of salt water lakes, bays, inlets or marshes or that portion of the Gulf of Mexico within the boundaries of the State of Texas shall pay to the State a tax at the rate of one cent on each one thousand gallons of water used for such purposes.

Sec. 2. The tax herein levied shall be paid to the Comptroller of Public Accounts on the fifteenth day of the month following that month in which the water was used. The Comptroller is hereby empowered to require all persons, firms, and corporations subject to this tax to maintain such records and to make such reports as will enable him to collect the full amount of the tax due the State.

Sec. 3. Each user of salt water as described in Section 1 of this Article shall maintain accurate gauges or meters for measuring all salt water from which any mineral, chemical or other substance is extracted, and the use of any salt water for such purposes which is not measured through a gauge or meter shall be unlawful. The Comptroller is hereby authorized to adopt rules and regulations concerning the inspection and resetting of meters and gauges, and the reading and recording of measurements. Violation of any provision of this section or of any rule or regulation promulgated by the Comptroller shall constitute a misdemeanor and shall be punishable by a fine or not more than one thousand dollars. The Comptroller and his representatives shall have authority to inspect all meters

and gauges and all records relating to the quantity of water used.

Sec. 4. The failure to pay the tax herein levied shall subject the taxpayer to a penalty of ten per cent of the amount of the tax due for each day that the tax remains unpaid, and a delinquent taxpayer may be enjoined from the further use of salt water until the full amount of all taxes and penalties is paid. All such suits shall be brought by the Attorney General in a district court of Travis County, Texas.

Sec. 5. The use of underground salt water is expressly exempted from the provisions of this law.

Sec. 6. All moneys collected under this Article shall be deposited to the credit of the General Revenue Fund.

Sec. 7. This Article shall become operative on the first day of the first month following the expiration of thirty days after its effective date.

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled.

Senator Hardeman offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment to House Bill 660 by adding thereto the following Article V:

"ARTICLE V.

Section 1. The provisions of Texas Revised Civil Statutes on the interpretation of Statutes shall apply specifically to this Article. In addition to these standard definitions, in this Article, unless the context otherwise requires:

(a) "Gas" means natural and casinghead gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate, condensate or other product.

(b) "Casinghead gas" means any gas or vapor indigenous to an oil stratum and produced from such stratum with oil.

(c) "Person" means and includes any person, firm, concern, receiver, trustee, executor, administrator, agent, and institution, association, partnership, company, corporation, and persons acting under declarations of trust, as well as trustees acting under declarations of trusts.

(d) "Cubic foot of gas" or "standard cubic foot of gas" shall have the

definition ascribed thereto by Texas laws, 1949, Chapter 519, Section 4, Texas Revised Civil Statutes (Vernon, 1948), Article 7047b, Section 2(12).

(e) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

Section 2. In addition to all other licenses and taxes levied and assessed in the State of Texas, there is hereby levied a tax on the privilege of withdrawing natural gas from the lands and waters of this State at the rate of one-twentieth ($1/20$) of one cent (1c) per unit of 1,000 cubic feet of gas withdrawn.

Section 3. The tax hereby levied shall be the liability of the person for whose use and benefit such gas is withdrawn from the lands and waters of this State, as hereinafter defined.

Section 4. Where a contract in writing confers upon one person the prior right to take title to gas produced from particular lands, leases or reservoirs in this State and imposes upon another person the obligation to maintain and operate wells, or gathering or dehydration facilities, or to process or treat such gas so as to make delivery thereof as required by such contract, it shall be conclusively presumed (i) that by such contract gas in place under such lands or leases or within such reservoirs has been pledged, dedicated and set apart to satisfy such contract and (ii) that any gas which is delivered and accepted under such contract has been withdrawn from the lands and waters of this State for the use and benefit of the person taking title to such gas by virtue of such contract. If there be more than one such contract covering the same gas, the tax hereby levied shall be the obligation of the person who ultimately takes title to the gas in this State by virtue of such contracts. As to all other gas produced, it shall be conclusively presumed that gas when withdrawn from the lands and waters of this State is withdrawn for the use and benefit of the person taking it from the land or waters in this State and having the original possessory right thereto as and when the same is produced.

Section 5. In the event the same person is liable for the tax levied by Article 1 of H. B. 15, 53rd Leg., 1st Called Session, of this act as well as by this Article V on account of the same gas, such person shall be en-

titled to credit against the amount due under said Article I the tax voluntarily paid on such gas because of this Article V, it being the intention of this act that the same person shall not be required to pay both of said taxes on the same gas.

Section 6. The tax levied hereby shall be paid by the person liable therefor on or before the last day of each month on all gas withdrawn from the lands and waters in the State during the next preceding calendar month prior to the first day of the month in which payment is required to be made, and such payment shall be accompanied by such reports as the Comptroller may prescribe under the provisions of Section 4 of this Article. If such payment is not made within the time prescribed, the amount due shall become delinquent and a penalty of two per cent (2%) of the amount of the tax shall be added to the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such person liable therefor written notice of the amount due, such person shall be liable for an additional penalty of eight per cent (8%) of the amount of taxes due. All past due taxes and penalties shall draw interest at the rate of six per cent (6%) per annum.

Section 7. It shall be the duty of each person who purchases, receives, or otherwise acquires possession of gas withdrawn from the lands and waters in this State, including any person who processes, treats, dehydrates, compresses or otherwise processes any such gas, to keep accurate records within this State of all such gas. Such record shall include the volume of gas withdrawn, purchased, received or otherwise acquired and the disposition thereof. Such persons shall make such reports to the State as the Comptroller may require. The Comptroller shall prescribe the form of reports to be made and the time within which such reports shall be made.

The Comptroller shall have the power to prescribe such rules and regulations and to require such records and reports as may be needed to aid in the administration and enforcement of this Article.

Section 8. The Comptroller shall employ auditors and technical assistants for the purpose of verifying reports and investigating to determine whether the tax is being properly re-

ported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Article, and any other premises necessary in determining the correct tax liability, and to examine, or cause to be examined, any books, or records, of any person, subject to a tax under this Article or mentioned in Section 4 of this Article, and to secure any other information directly or indirectly concerned in the enforcement of this Article, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Article, which shall have the full force and effect of law. Before any division or allotment of the tax collected under the provisions of this Article is made, one-fifth ($1/5$) of one per cent (1%) of the tax paid monthly as may be needed in such administration and such enforcement is hereby appropriated for such purpose.

Section 9. In the event any person shall become delinquent in the payment of the proper taxes herein imposed, or fails to file the required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from withdrawing gas from the lands and waters of this State until the delinquent tax is paid or said reports are filed, and the venue of any such suit for injunction is hereby fixed in the county where the offense occurs.

Section 10. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than twenty-five dollars (\$25) for each violation and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties, and interest on all property and equipment used by such person in his business, and if any person shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this Article; and the venue of any such suit is hereby fixed in Travis County.

Section 11. (A) If any person liable for the payment of the tax hereby levied, or required to remit the same to the Comptroller, fails or refuses to pay any tax, penalty or interest

within the time and manner provided by the Article and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such person or his representative or a certified copy thereof certified to by the Comptroller showing the amount of gas on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said person when filed and sworn to by such representative as being made from the records of said person, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be submitted in evidence only against the party by or from whom it was made.

(B) In the event the Attorney General shall file suit of claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said person, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid and that all payments and credits have been allowed, then unless the party resisting the same shall file an answer in the form and manner required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

Section 12. The provisions of this Article shall apply to all gas produced on or subsequent to the first day of the first month after the effective date of this Article.

The amendment was read.

Senator Hazlewood moved to table the amendment.

The motion to table was lost by the following vote:

Yeas—11

Bracewell	Ratliff
Hazlewood	Strauss
Kelley	Wagonseller
Lock	Weinert
Parkhouse	Willis
Phillips	

Nays—20

Aikin	McDonald
Ashley	Moffett
Colson	Moore
Corbin	Owen
Fly	Roberts
Fuller	Rogers
Hardeman	of Childress
Kazen	Rogers of Travis
Lane	Secrest
Latimer	Shireman
Martin	

Question recurring on the amendment, it was adopted.

Senator Shireman offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment to H. B. 660, Art VI, Sec. 1, by inserting after word "any" in first line the word "Article."

The amendment was adopted.

(Senator Aikin in the Chair.)

Senator Hardeman offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment to H. B. 660 by adding a new article known as Article V-A:

"Each individual, company, corporation, or association engaged in the business of producing any metal or liquid (except alcoholic beverages, oil, gasoline, or other liquid hydrocarbons) in this State by any chemical, metallurgical, or electrolytic process shall on or before the 25th day of January, April, July, and October of each year make a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association showing the gross amount received from such business for the three calendar months next preceding such report. Said individual, company, corporation, or association, at the time of making said report, shall pay to the Comptroller an occupation tax for the three calendar months next preceding such report equal to one one-hundredths of one per cent (.01 of 1%) of said gross receipts in excess of Two Hundred and Fifty Thousand Dollars (\$250,000.00) as shown by said report. A complete record of the business transacted, together with any other information the Comptroller may require, shall be kept by each individual, company, corporation, or association engaged in said

business for a period of two (2) years, open to the inspection of the Comptroller or the Attorney General or their authorized representatives. The Comptroller shall have the authority to adopt rules and regulations for the enforcement of this Act and the collection of the tax levied herein. If any person, company, corporation, or association shall violate any provision of this Act, he or it shall forfeit to the State of Texas, as a penalty, the sum of not less than Twenty-five Dollars (\$25), and not more than Five Hundred Dollars (\$500) for each violation, and each day's violation shall constitute a separate offense, and in addition thereto delinquent taxes shall draw a penalty equal to one per cent (1%) per month from due date. The state shall be secured for all taxes, penalties, interests and costs due by a preferred lien, first and prior to any and all other existing liens, contractual or statutory, legal or equitable upon all the property used by the taxpayer in his or its business."

HARDEMAN
MOORE

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled by the following vote:

Yeas—18

Bracewell	Owen
Fly	Parkhouse
Fuller	Phillips
Hazlewood	Ratliff
Kazen	Roberts
Kelley	Secrest
Latimer	Shireman
Lock	Strauss
McDonald	Willis

Nays—11

Aikin	Moore
Ashley	Rogers
Corbin	of Childress
Hardeman	Rogers of Travis
Lane	Wagon seller
Martin	Weinert

Absent

Colson	Moffett
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Senator Moore offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood substitute for H. B. 660 by adding a new section to read as follows:

Section 1. Definitions.

(a) As used herein, the term "dealer" shall mean any individual, partnership, company, corporation, association, receiver, trustee, or other person owning, operating, managing or controlling any enterprise in the business of furnishing or offering to furnish, by sale, lease or franchise, within the State of Texas, any trade stamps.

(b) As used herein, the term "trade stamps" shall mean any stamps, symbols or other devices which are delivered without charge by a seller of any goods, wares or merchandise, and which stamps, symbols or other devices, or any number of them, entitles the holder thereof, upon their surrender or cancellation, to receive a cash payment or discount or anything of value free or at a price not available to him without such stamps, symbols or other devices.

Section 2. Each dealer, as herein defined, shall make quarterly reports on or before the 25th day of each April, July, October and January relative to the business of such dealer during the preceding calendar quarter. For the purposes of this Act the three full calendar months next preceding the month in which such report is required to be made shall constitute a quarter.

Such reports shall be made on forms prescribed by the Comptroller and must include the following information:

(a) The gross amount in dollars or things of value received from business done in this State as such dealer during such quarter.

(b) The net and actual cost in dollars to the dealer of any goods, wares or merchandise or other things of value delivered by the dealer in redemption of, or in exchange for, or for the surrender or cancellation of trade stamps furnished by dealer.

If made by an individual as a dealer, such report must be sworn to by the dealer or if the dealer be other than an individual, must be sworn to by its president, secretary or other duly authorized officer. In addition thereto, the reports must contain such other information as required by the Comptroller. The Comptroller shall have the power to promulgate such rules and regulations as he may find necessary for the enforcement of this Act.

Section 3. Each dealer, at the time of making such report to the Comptroller, shall pay to the State Treas-

urer an occupation tax for the quarter covered by such report equal to seven per cent (7%) of the gross receipts received by the dealer as such from business done in this State during such quarter.

Section 4. (a) It shall be the duty of every dealer to keep and maintain at the dealer's main office in Texas, complete and correct books, records, accounts, and such other data as may be necessary to show in detail the business transacted in Texas or with persons, firms, or corporations in Texas by such dealer. Such books and records must include the names and addresses of all persons, firms, partnerships, trustees and corporations obtaining trade stamps from the dealer, as well as the number and amount of trade stamps in each such transaction and the price or other thing of value paid therefor by each such person, firm, corporation, partnership or trustee receiving same.

(b) It shall be the duty of the dealer at the time of making his first report to the Comptroller to state the address of his main office in Texas by street and number and city or town. Thereafter it shall be unlawful for dealer to move such books and records from the address given without having first notified the Comptroller in writing of such change of address.

(c) All of such books and records shall be open to inspection by the Comptroller of the State of Texas and the Attorney General of Texas and their authorized agents, deputies and employees. The Comptroller is hereby directed to audit such reports and is hereby authorized and empowered to employ qualified auditors to determine the correctness of such reports; and may examine the books and records of any dealer, not only to determine the correctness of any report filed, but to determine whether reports should have been made when none has been filed. Such books and records must be kept and maintained for the period covering the last two preceding calendar years after the effective date of this Act.

Section 5. Any dealer who shall wilfully fail to make a quarterly report as required by this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$1,000.00 nor more than \$5,000.00.

(a) Any dealer or person who shall wilfully file, sign or swear to a false

or incorrect report shall be guilty of perjury and upon conviction therefor shall be punished as provided by law for the crime of perjury.

(b) Any dealer who fails or refuses to keep and maintain at his main office in Texas the books, records and other data required by this Act, shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than \$1,000.00 nor more than \$5,000.00.

(c) If any tax due herein is not paid when the same becomes due, a penalty of 10% of the taxes due shall also immediately become due and payable; and thereafter, each 30 days that such tax is not paid after it becomes due, another 10% penalty shall be due and payable also on such taxes.

(d) Any dealer, person or firm, company or corporation who violates any other provision of this Act shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than \$1,000.00 nor more than \$5,000.00.

(e) Upon final conviction for any violation of this Act by any corporation, its charter, if a domestic corporation, and its permit to do business in Texas if a foreign corporation, shall be subject to forfeiture on suit by the Attorney General. Upon trial of such suit, it shall be necessary only for the State to prove such final conviction.

Section 6. Three per cent (3%) of the gross revenue derived from the tax levied herein is hereby allocated to a Trade Stamp Audit Fund to be used by the Comptroller for the purpose of carrying out the duties described in this Act, and all money credited to such Fund or so much thereof as may be necessary is hereby appropriated to the Comptroller; provided, that on September 1st of each year, all of the unexpended surplus in said Fund in excess of receipts deposited to the credit of the Fund during the preceding fiscal year, or the amount specifically appropriated from such Fund to the Comptroller by the Legislature, whichever is greater, shall be transferred from said Fund to the General Revenue Fund.

Section 7. One-fourth ($\frac{1}{4}$) of the net revenue derived from the tax levied remaining after allocating three per cent (3%) of the gross revenue to the "Trade Stamp Audit Fund" as

herein provided, is hereby allocated to the State Available School Fund, one-fourth ($\frac{1}{4}$) to State Hospitals and Special Schools of the State, and one-half ($\frac{1}{2}$) to the State Highway Fund for the construction and maintenance of public roads of this State constituting and comprising the system of the State Highways of Texas as designated by the State Highway Commission of Texas.

Section 8. The provisions of this Act are hereby declared to be severable and a holding of partial invalidity of this Act by a court of competent jurisdiction shall not affect the remaining portions of the Act.

Section 9. The fact that trade stamp dealers, as herein defined, are presently untaxed in this State and the great need for additional revenue to defray the cost of the essential services of the State creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled.

(President in the Chair.)

Senator Corbin offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment to House Bill No. 660 by adding a new article, numbered Article VI, following Article V, and by renumbering subsequent articles accordingly, the new article to read as follows:

ARTICLE VI

Section 1. Section 8a of Chapter 88, Acts of the 41st Legislature, Second Called Session, 1929, as last amended by House Bill No. 162, Acts of the 54th Legislature, Regular Session, 1955, which is codified as Article 6675a-8a of Vernon's Texas Civil Statutes, is hereby amended to read as follows:

"Sec. 8a. Annual license fees for the registration of motor buses shall be based upon the 'gross weight' of the vehicle as follows:

Gross Weight in Pounds	Fee per 100 Pounds or Fraction Thereof	
	Equipped with Pneumatic Tires	Equipped with Solid Tires
1- 4,000	\$1.37	\$1.65
4,001- 6,000	1.48	1.92
6,001- 8,000	1.54	2.03
8001-16,000	1.65	2.20
16,001-24,000	2.20	2.47
24,001-28,000	2.75	3.02
28,001 and up	4.40	6.60"

**CORBIN
WAGONSELLER**

The amendment was read.

On motion of Senator Hazlewood the amendment was tabled by the following vote:

Yeas—25

Aikin	Moffett
Ashley	Owen
Bracewell	Parkhouse
Colson	Phillips
Fly	Ratliff
Fuller	Roberts
Hazlewood	Rogers
Kazen	of Childress
Kelley	Rogers of Travis
Lane	Secrest
Latimer	Shireman
Lock	Strauss
McDonald	Willis

Nays—6

Corbin	Moore
Hardeman	Wagonseller
Martin	Weinert

Senator Fly offered the following amendment to the amendment by Senator Hazlewood:

Amend the Fly amendment to the Hazlewood amendment by renumbering it as "Article IV-A" instead of "Article V."

The amendment was adopted.

Senator Lock offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood amendment by adding a new Article V-B to read as follows:

"ARTICLE V-B

Section 1. Amend Article XX, House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature as amended, and carried in Vernon's Texas Civil Statutes (Anno-

tated) as Article 7083a, by adding a new subsection to be numbered 4-c to read as follows:

The allocations provided for in Section 2 of Article 7083a, Vernon's Texas Civil Statutes (Annotated), shall be made in the following manner:

A. Of the amount in the Clearance Fund the following allocations shall be made on the first of each month, after the amounts for enforcement and the one-fourth ($\frac{1}{4}$) to the Available School Fund are taken out:

First. Sec. 2. (4-b) Farm to Market Road Fund

Section. Sec. 2. (1) Blind Assistance Fund

Third. Sec. 2. (2) Children Assistance Fund

Fourth. Sec. 2. (3) Teacher Retirement System

Fifth. Sec. 2. (4) Old Age Assistance

B. The cash balance in the fund on the fifth (5th) working day of the month shall be allocated on the fifth (5th) working day of the month in the following manner, after the amounts for enforcement and the one-fourth ($\frac{1}{4}$) to the Available School Fund are taken out:

First. Sec. 2. (4-a) Foundation School Fund

Second. Balance to General Revenue Fund."

The amendment was read and was adopted.

Senator Hazlewood offered the following amendment to the amendment by Senator Hazlewood:

Amend Hazlewood substitute to H. B. 660 by numbering the Articles in proper sequences.

The amendment was adopted.

The amendment by Senator Lock as substituted and amended was then adopted.

On motion of Senator Lock and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill, as amended, was passed to third reading.

House Bill 660 on Third Reading

Senator Lock moved that Senate Rule 32 and the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 660 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	McDonald
Ashley	Moffett
Bracewell	Moore
Colson	Owen
Fly	Parkhouse
Fuller	Phillips
Hardeman	Ratliff
Hazlewood	Roberts
Kazen	Rogers of Travis
Kelley	Secrest
Lane	Shireman
Lock	Weinert
Martin	Willis

Nays—5

Corbin	Strauss
Latimer	Wagonseller
Rogers	
of Childress	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—18

Aikin	McDonald
Ashley	Moffett
Bracewell	Owen
Colson	Ratliff
Fly	Roberts
Hazlewood	Rogers of Travis
Lane	Secrest
Lock	Shireman
Martin	Willis

Nays—13

Corbin	Parkhouse
Fuller	Phillips
Hardeman	Rogers
Kazen	of Childress
Kelley	Strauss
Latimer	Wagonseller
Moore	Weinert

Presentation of Guests

Senator Secrest, by unanimous consent, presented Miss Carolyn Secrest

of Clayton, New Mexico, and Mr. Jim Lutz of Dalhart to the Members of the Senate.

**Conference Committee on
House Bill 20**

The President announced the appointment of the following as a Conference Committee on the part of the Senate on H. B. No. 20: Senators Parkhouse, Bracewell, Martin, Kelley and Colson.

House Bills on First Reading

The following bills, received from the House, were read the first time and referred to the committees indicated:

H. B. No. 960, To the Committee on Counties and County Boundaries.

H. B. No. 946, To the Committee on Water Rights, Irrigation and Drainage.

Report of Standing Committee

Senator Fly, by unanimous consent, submitted the following report:

Austin, Texas,
May 27, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries to whom was referred H. B. No. 960, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FLY, Chairman.

House Bill 943 Ordered Not Printed

On motion of Senator Aikin and by unanimous consent, H. B. No. 943 was ordered not printed.

Adjournment

On motion of Senator Hardeman the Senate at 5:10 o'clock p. m. adjourned until 10:30 o'clock a. m. on Monday, May 30, 1955.

Record of Vote

Senator Phillips asked to be recorded as voting "nay" on the motion to adjourn.